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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Region Office

PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

June 27, 2024

City of Bellevue - Development Services Department
c/o Toni Pratt, Land Use Planning Manager
450 110th Avenue NE
Bellevue, WA 98004
(tpratt@bellevuewa.gov)

Re: Notification of Remaining Contamination and Environmental Restrictions

Site Names and Addresses:

UNOCAL 4511/The Artise (Cleanup Site ID 7649; VCP NW3259)
788 106th Avenue NE, Bellevue, WA

Thinker Toys (Cleanup Site ID 2477)
10610 Bellevue Way, Bellevue WA

Dear Toni Pratt:

The Washington State Department of Ecology (Ecology) wants you to know there have been environmental cleanup actions completed under the Voluntary Cleanup Program (VCP) at the UNOCAL 4511/The Artise Site, which has also been affected by migration of groundwater contamination from the upgradient Thinker Toys Site. While Ecology considers the cleanup actions finished for contaminants that originated on The Artise Site (see attached Site No Further Action Opinion Letter date June 27, 2024), contamination from the Thinker Toys Site remains in areas throughout The Artise Site, including beneath adjacent rights-of-way (ROWs) managed by the City of Bellevue. There are environmental restrictions in place for The Artise Property (King County parcel 154410-0215) to ensure the cleanup remains effective.

While you can continue to use your ROWs in the areas within and surrounding the Property, if your activities involve removal of the asphalt cover, digging into the ground, or pumping of groundwater, your workers could encounter contaminated soil and/or groundwater and potentially be put at risk. Ecology wants to ensure you are aware that contamination remains beneath the Property, requiring environmental restrictions to protect human health and the environment. Because of the remaining contamination and environmental restrictions, Ecology encourages you to discuss any proposed activities within the boundaries of the Property and adjacent ROWs with Ecology representatives, so they can assist you in safely conducting your activities.

What are the Environmental Restrictions?

Environmental restrictions are rules about the kinds of activities permitted at a property that is part of a contaminated site. Environmental restrictions are outlined in a document called an environmental covenant, which is attached to title and recorded with the County. The environmental covenant for this Property is included with the enclosed Site No Further Action Opinion Letter, and reflects that the landowner has agreed to the following restrictions on these kinds of activities:

- The existing structures on or the concrete cap over the Property shall not be removed in any manner that would expose contaminated soil, soil vapor, or groundwater, or result in a release to the environment of contaminant or create a new exposure pathway, without prior written approval of Ecology. Any intrusive subsurface work within or beneath the Property must be implemented by Hazardous Waste Operations and Emergency Response (HAZWOPER) trained workers in accordance with a health and safety plan.
- The newly constructed building on the Property includes a chemical vapor barrier. This chemical vapor barrier, combined with the concrete foundation of the structure, will prevent migration of vapors into the building. No alterations of the existing foundation of the structure or new construction that has the potential to affect the vapor intrusion pathway shall be performed unless approved by Ecology.
- No building or other enclosed structure shall be constructed within the restricted area specified in the environmental covenant unless approved in advance by Ecology. If a building or other enclosed structure is approved by Ecology for construction within the restricted area, then it shall be constructed with a sealed foundation and a chemical vapor control system that is operated and maintained to prevent the migration of chemical vapor into the building or structure, unless an alternative approach is approved by Ecology.
- To minimize the potential for mobilization of contaminants remaining in the soil on the Property, no stormwater infiltration facilities or ponds shall be constructed on the Property. All new stormwater catch basins, conveyance systems, and other appurtenances located within or associated with the Property shall be of water-tight construction.
- Groundwater beneath the Property or the Site shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring, or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted beneath the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

If the restrictions are followed, the cleanup will protect people and the environment from contamination. If the restrictions are not followed, people or the environment could be exposed to

City of Bellevue

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contamination. In that case, Ecology may rescind the Site No Further Action opinion, or other repairs or additional remedial actions may be required.

Ecology will review this site every 5 years, as resources permit, to make sure the cleanup and environmental restrictions still protect human health and the environment.

Worker Safety

Protection of workers from contamination is very important. Before beginning construction or maintenance at this property, call the Ecology NW Region office at 206-594-0000 and ask to speak to someone in the Toxics Cleanup Program. Ecology can help you understand the specific restrictions for the property and how to make sure any activity you conduct will be done safely. The maps included in the enclosed Site No Further Action opinion letter illustrate the locations of contamination at the Site.

Preservation of Monitoring Wells in City ROW

Five groundwater monitoring wells associated with this Site are located in City of Bellevue ROWS: wells AMW-11S, AMW-11D, MW-16, MW-17, and MW-18. The locations of these wells are shown on the enclosed Site maps. Ecology requests that the City protect these wells from damage during any ROW maintenance or construction projects.

Site History

Additional site history describing the contamination, investigation, and cleanup can be obtained from Ecology's website at <https://apps.ecology.wa.gov/cleanupsearch/site/7649#site-documents> and at <https://apps.ecology.wa.gov/cleanupsearch/site/2477#site-documents>

Questions?

Please call me at (425) 324-1892 or email michael.warfel@ecy.wa.gov if you have any questions about this letter.

Sincerely,



Michael R. Warfel

VCP Site Manager

Toxics Cleanup Program, NWRO

- Enclosures (2):
1. Site No Further Action VCP Opinion Letter, Bellevue Corner Unocal 4511/The Artise, VCP NW 3259, June 27, 2024, with attached Environmental Covenant
 2. Site Maps Showing the Locations of Monitoring Wells in City ROWs

cc: Zeb Keck, SWB Bellevue II, LLC (zkeck@schnitzerwest.com)
Ken Lederman, McCullough Hill PLLC (ken@mhseattle.com)
Ali Cochrane, Aspect Consulting (ali.cochrane@aspectconsulting.com)



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DEPARTMENT OF ECOLOGY

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PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

June 27, 2024

Zeb Keck
SWB Bellevue II, LLC
920 5th Avenue, Suite 2750
Seattle, WA 98104
(zkeck@schnitzerwest.com)

Re: No Further Action opinion for the following contaminated Site

Site name: Bellevue Corner Unocal 4511 / The Artise
Site address: 19605 NE 8th Street, Bellevue WA 98004
Facility/Site ID: 5569973
Cleanup Site ID: 7649
VCP Project No.: NW3259

Dear Zeb Keck:

The Washington State Department of Ecology (Ecology) received your request for an opinion regarding the sufficiency of your independent cleanup of the Bellevue Corner Unocal 4511 facility (Site) under the [Voluntary Cleanup Program \(VCP\)](#).¹ This letter provides our opinion and analysis. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), [Chapter 70A.305 RCW](#).²

Opinion

Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.

This opinion depends on the continued performance and effectiveness of the post-cleanup controls and monitoring specified in this letter and in the environmental covenant in Enclosure A.

¹ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Voluntary-Cleanup-Program>

² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

Zeb Keck

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Ecology bases this opinion on an analysis of whether the remedial action meets the substantive requirements of MTCA and its implementing regulations, which are specified in Chapter 70A.305 RCW and [Chapter 173-340 WAC](#)³ (collectively called “MTCA”).

Site Description

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Gasoline-, diesel-, and oil-range petroleum hydrocarbons (TPH-G, TPH-D, and TPH-O); benzene; tetrachloroethylene (PCE); trichloroethylene (TCE); and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) into soil.
- PCE, TCE, and vinyl chloride into groundwater.
- PCE and TCE into soil vapor.

Enclosure B includes a Site description, history, and diagrams.

Please note the Thinker Toys facility (Facility Site ID 2462690) and the Onni 106th Ave Bellevue LLC facility (Facility Site ID 73977) also affect the parcel of real property associated with this Site, and are the sources of the PCE contamination on the Site. This No Further Action opinion does not apply to any contamination associated with the Thinker Toys or Onni 106th Ave Bellevue LLC facilities.

Basis for the Opinion

Ecology bases this opinion on information in the documents listed in Enclosure C. You can request these documents by filing a [records request](#).⁴ For help making a request, contact the Public Records Officer at recordsofficer@ecy.wa.gov or call (360) 407-6040. Before making a request, check if the documents are available on the [Site webpage](#).⁵

This opinion is void if information in any of the listed documents is materially false or misleading.

Analysis of the Cleanup

Ecology has concluded that no further remedial action is necessary to clean up contamination at the Site. Ecology bases its conclusion on the following analysis:

Characterizing the Site

Ecology has determined your completed Site characterization is sufficient for setting cleanup standards and selecting a cleanup action. Site investigations completed from September 1990

³ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

⁴ <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

⁵ <https://apps.ecology.wa.gov/cleanupsearch/site/7649>

through September 2023 identified the horizontal and vertical extent of contamination at the Site in soil and groundwater. Site characterization details are described in Enclosure B.

Setting cleanup standards

Ecology has determined the cleanup levels and points of compliance you set for the Site meet the substantive requirements of MTCA.

Cleanup Levels

Soil

MTCA Method A soil cleanup levels for unrestricted land uses are based on protection of groundwater and are the default cleanup levels. The Site is located in an area that qualifies for a Terrestrial Ecological Evaluation (TEE) exclusion and does not require additional evaluation, in accordance with [WAC 173-340-7491\(1\)\(c\)\(i\)](#)⁶. There are less than 1.5 acres of contiguous undeveloped land on or within 500 feet of any area of the Site. Therefore, soil cleanup levels protective of terrestrial species are not needed at this Site.

Groundwater

The highest beneficial use for groundwater under MTCA is considered to be as a drinking water source, unless it can be demonstrated that the groundwater is not potable. MTCA Method A groundwater cleanup levels are protective of potable use and are therefore the default.

Air

Air cleanup levels are considered necessary to protect against vapor intrusion (VI) into existing buildings. Method B VI screening levels for groundwater are appropriate to assess the VI and air exposure pathways.

Points of Compliance

Soil

The point of compliance for soil at the Site for protection of groundwater is soils throughout the Site.

Groundwater

The point of compliance for groundwater is throughout the Site, from the uppermost level of the saturated zone extending vertically and horizontally to the lowest depth that could potentially be affected.

Air

The point of compliance for air is ambient air throughout the Site.

⁶ <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-7491>

Selecting the cleanup action

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA. The cleanup action selection was documented in the *Remedial Action/Feasibility Study and Cleanup Action Plan* dated November 20, 2020, and consisted of the following elements:

- Removal of underground storage tanks (USTs) associated with the former Union 76 gasoline station that operated on the property and off-Site disposal of excavated soil;
- Excavation and off-Site disposal of contaminated soil encountered during Site redevelopment;
- Collection and treatment of contaminated groundwater during Site redevelopment;
- Incorporation of a drainage system and chemical vapor barrier around the new building constructed at the Site, to mitigate contamination impacts;
- Collection of confirmation soil and groundwater samples to assess compliance with MTCA cleanup levels; and
- Recording of an environmental covenant to implement institutional controls for residual soil and groundwater contamination.

Implementing the cleanup action

Ecology has determined your cleanup meets the standards set for the Site. This determination depends on the continued performance and effectiveness of the post-cleanup controls and monitoring specified in this letter. The Site cleanup included the following activities:

- Removal of two 10,000-gallon gasoline USTs, two other USTs of unspecified capacities (one heating oil UST and one waste oil UST), three hydraulic hoists, an oil/water separator, and a dry well in 1992, along with off-Site disposal of approximately 2,000 cubic yards of petroleum-contaminated soil;
- Excavation and off-Site disposal of contaminated soil during Site redevelopment in June 2021 through March 2022 (approximately 14,000 tons of petroleum-contaminated soil and 45,000 tons of solvent-contaminated soil);
- Collection of contaminated groundwater during building construction, followed by treatment and discharge to the City of Bellevue stormwater system under an NPDES permit;
- Confirmation soil sampling in the excavation sidewalls and bottom (total of 196 samples), to document compliance with MTCA cleanup levels and locations where residual contamination requires an environmental covenant;
- Installation of a chemical vapor barrier on the outer foundation wall to prevent migration of contaminated soil vapor into the building;

- Installation of three new monitoring wells during Site redevelopment to document the status of the Thinker Toys solvent plume beneath the Site (AMW-10, AMW-11S, and AMMW-11D; see Enclosure B, Figure 11); and
- Recording of an environmental covenant (Enclosure A) to implement institutional controls necessary to assure that the cleanup continues to be protective of human health and the environment.

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed to ensure compliance with cleanup standards. Ecology is issuing this No Further Action opinion based on the continued performance and effectiveness of the following post-cleanup remedial actions at the Site. Ecology may rescind this opinion if these remedial actions are not performed or do not effectively maintain the cleanup standards.

Compliance with institutional controls

Institutional controls prohibit or limit activities that may interfere with the integrity of engineering controls or result in exposure to contamination. The following site-specific institutional controls are needed at the Site:

- Containment of contaminated soil, soil vapor, and groundwater by a cap consisting of the concrete foundation of the building and surface pavement over peripheral areas of the Site;
- Soil vapor controls consisting of a chemical vapor barrier applied to the outer surface of the building foundation;
- Prohibition of stormwater infiltration facilities on the Site;
- Prohibition of Site groundwater extraction for water supply purposes; and
- Implementation of a cap inspection and groundwater monitoring plan.

To implement the controls, you recorded an environmental covenant on the following parcel of real property in King County:

- Tax parcel # 154410-0215

Ecology approved the recorded environmental covenant (see Enclosure A). To amend or terminate the covenant, you must request additional review under the VCP.

Operation and maintenance of engineering controls

Engineering controls prevent or limit movement of, or exposure to, contamination. The Site needs the following engineering controls:

- A cap consisting of the concrete foundation of the building and surface pavement over peripheral areas of the Site, and
- A chemical vapor barrier on the outer foundation surfaces.

Ecology has determined the operation and maintenance plan you submitted for these engineering controls meets the substantive requirements of MTCA. Enclosure A includes this plan in Exhibit E to the environmental covenant.

Performance of confirmational monitoring

Confirmational monitoring is needed at the Site to confirm the long-term effectiveness of the cleanup. Ecology will use the monitoring data during periodic reviews of post-cleanup conditions. Ecology has determined the monitoring plan you submitted meets the substantive requirements of MTCA. Enclosure A includes this plan as an exhibit to the environmental covenant.

Periodic review of post-cleanup conditions

Ecology will conduct periodic reviews of post-cleanup conditions at the Site to evaluate if they remain protective of human health and the environment. Based on a periodic review, If Ecology determines the Site needs further remedial action, Ecology will rescind this opinion.

Listing of the Site

Based on this opinion, Ecology will initiate the process of removing the Site from the Contaminated Sites List and the Leaking Underground Storage Tank (LUST) list. The Site will be added to the No Further Action sites list.

Limitations of the Opinion

Opinion does not settle liability with the state

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion does not:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under [RCW 70A.305.040\(4\)](https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040).⁷

Opinion does not constitute a determination of substantial equivalence

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This

⁷ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>

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opinion does not determine if the action you performed is substantially equivalent. Courts make that determination. See [RCW 70A.305.080](https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.080)⁸ and [WAC 173-340-545](https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545).⁹

State is immune from liability

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. See [RCW 70A.305.170\(6\)](https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.170(6)).¹⁰

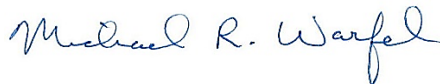
Termination of Agreement

Thank you for cleaning up the Site under the VCP. This opinion terminates the VCP Agreement governing VCP Project No. NW3259.

Questions

If you have any questions about this opinion or the termination of the Agreement, please contact me at 425-324-1892 or michael.warfel@ecy.wa.gov.

Sincerely,



Michael R. Warfel, VCP Site Manager
Toxics Cleanup Program, NWRO

Enclosures (3): A – Environmental Covenant for Institutional Controls
 B – Site Description, History, and Diagrams
 C – Basis for the Opinion: List of Documents]

cc: Ali Cochrane, Aspect Consulting (ali.cochrane@aspectconsulting.com)
 Toni Pratt, City of Bellevue (tpratt@bellevuewa.gov)
 Sonia Fernández, VCP Coordinator (sonia.fernandez@ecy.wa.gov)
 Fiscal, VCP Fiscal Analyst (ecyrevcp@ecy.wa.gov)

⁸ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.080>

⁹ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

¹⁰ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.170>

Enclosure A

Environmental Covenant for Institutional Controls

Record Date:4/9/2024 11:44 AM

Electronically Recorded King County, WA

When Recorded Mail To:
Michael R. Warfel
Toxics Cleanup Program
Department of Ecology
Northwest Region Office
15700 Dayton Ave N
Shoreline, WA 98133

Document Title:	Environmental Covenant
Grantor:	SWB Bellevue II, LLC
Grantee:	State of Washington, Department of Ecology
Legal description (abbreviated):	Lot 1, Bellevue BLA #20-111234 LW Rec. #20201021900001, King County
Assessor's Tax Parcel ID:	154410-0215
Recording #s of document(s) released or assigned:	NONE

I AM REQUESTING AN EMERGENCY NONSTANDARD RECORDING FOR AN ADDITIONAL FEE AS PROVIDED IN RCW 36.18.010.

I UNDERSTAND THAT THE RECORDING PROCESSING REQUIREMENTS MAY COVER UP OR OTHERWISE OBSCURE SOME PART OF THE TEXT OF THE ORIGINAL DOCUMENT.



Lorri Savage, Paralegal

After Recording Return
Original Signed Covenant to:

Michael R. Warfel
Toxics Cleanup Program
Department of Ecology
Northwest Region Office
15700 Dayton Ave N
Shoreline, Washington 98133

Environmental Covenant

Grantor: SWB Bellevue II, LLC

Grantee: State of Washington, Department of Ecology (hereafter "Ecology")

Brief Legal Description:

CHERITON FRUIT GARDENS PLAT # 1 LOT 1 BELLEVUE BLA#20-111234 LW
REC#20201021900001 SD BLA DAF- PCLS B & C & D BE BLA#08-116047
REC#20090127900002 BEING NLY POR LOT 2 SD BLK 2 ADJ NE 8TH ST LESS STS
LESS ST PER REC# 20211105000369

Tax Parcel No.: 154410-0215

Cross References:

- Site No Further Action Opinion Letter, VCP NW3259, CSID 7649, Bellevue Corner Unocal 4511/The Artise, pending following recording of this Environmental Covenant
- Notification of Remaining Contamination and Environmental Restrictions, Letter from Department of Ecology to City of Bellevue Planning and Development Department, pending following recording of this Environmental Covenant

RECITALS

a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70A.305 RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.

b. The Property that is the subject of this Covenant is part or all of two sites commonly known as Bellevue Corner UNOCAL 4511, FSID No. 5569973, CSID No. 7649, VCP No. NW3259 and Thinker Toys, FSID No. 2462690, CSID No. 2477. The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter “Property”). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.

c. The Property is the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions, due solely to migration of groundwater contamination from an upgradient source property known as the Thinker Toys Site, FSID No. 2462690, CSID No. 2477. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Tetrachloroethene (PCE)
Groundwater	Tetrachloroethene (PCE)
Surface Water/Sediment	Not applicable

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the Property. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology. This includes the following documents:

- Aspect Consulting, LLC, Cleanup Action Report, September 15, 2023
- Aspect Consulting, LLC Groundwater Monitoring Report, September 15, 2023
- Aspect Consulting, LLC, Remediation Investigation / Feasibility Study and Cleanup Action Plan, November 20, 2020
- Aspect Consulting, LLC, Remedial Investigation Workplan, February 7, 2020
- Aspect Consulting, LLC, Phase II Environmental Site Assessment, November 15, 2019
- Aspect Consulting, LLC, Phase I Environmental Site Assessment, October 14, 2019

e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a “Holder” of this Covenant under UECA, Ecology has an interest in real property, however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.* The rights of Ecology as an “agency” under UECA, other than its right as a Holder, are not an interest in real property.

COVENANT

SWB Bellevue II, LLC, as Grantor and fee simple owner of the Property hereby grants to Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the Grantor has in the Property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. Continued Compliance Required.** The Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.
- d. Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. Preservation of Reference Monuments.** The Grantor shall make a good faith effort to preserve reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, the Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

- b. Containment of soil, soil vapor, and groundwater.** The remedial action for the Property is based on containing contaminated soil, soil vapor, and groundwater under a cap consisting of the concrete foundation of the structure and surface pavement of unexcavated areas. The primary purpose of this cap is to minimize the potential for contact with contaminated soil, soil gas, and groundwater. As such, the following restrictions shall apply within the area illustrated in Exhibit C:

The Grantor shall not alter or remove the existing structures on or the concrete cap over the Property in any manner that would expose contaminated soil, soil gas, or groundwater; result in a release to the environment of contaminants; or create a new exposure pathway; without prior written approval of Ecology. Should the Grantor propose to remove all or a portion of the existing structures illustrated in Exhibit C so that access to the underlying contamination is feasible, Ecology may require treatment or removal of the underlying contaminated soil. Any intrusive subsurface work within or beneath the Property must be implemented by Hazardous Waste Operations and Emergency Response (HAZWOPER) trained workers in accordance with a health and safety plan.

c. **Vapor/gas controls.** The newly constructed building on the Property includes a chemical vapor barrier. This chemical vapor barrier, combined with the concrete foundation of the structure, will prevent migration of vapors into the building. No alterations of the existing foundation of the structure or new construction that has the potential to affect the vapor intrusion pathway shall be performed unless approved by Ecology.

No building or other enclosed structure shall be constructed within the area illustrated in Exhibit C unless approved in advance by Ecology. If a building or other enclosed structure is approved by Ecology for construction within the area illustrated in Exhibit C, then it shall be constructed with a sealed foundation and a chemical vapor control system that is operated and maintained to prevent the migration of chemical vapor into the building or structure, unless an alternative approach is approved by Ecology.

d. **Stormwater facilities.** To minimize the potential for mobilization of contaminants remaining in the soil on the Property, no stormwater infiltration facilities or ponds shall be constructed on the Property. All stormwater catch basins, conveyance systems, and other appurtenances to be constructed on the Property shall be of water-tight construction.

e. **Groundwater use.** Groundwater beneath the Property within the area illustrated in Exhibit C remains contaminated. Groundwater beneath the Property shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring, or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted beneath the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

f. **Cap Inspection and Groundwater Monitoring Plan.** The Grantor shall comply with and implement the requirements of the Cap Inspection and Groundwater Monitoring Plan (attached hereto as Exhibit E) until such time that Ecology confirms in writing that the obligations of the Plan are no longer necessary.

For the groundwater monitoring wells that remain on the Property, the Grantor shall maintain clear access to these devices and protect them from damage. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to any monitoring device. Unless Ecology approves of an alternative plan in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor, and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

a. Conveyance of Any Interest. The Grantor, when conveying any interest within the area of the Property legally described in Exhibit A and illustrated in Exhibit B, including but not limited to title, easement, leases, and security or other interests, must:

- i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance. This notice requirement does not apply to the lease of individual commercial units on floors above the first floor of the Property. Waiver of this advance notice to Ecology for these transactions does not constitute waiver of this notice for the entire Property nor a waiver of the requirement in Section 4.a.ii. to include a notice in any document conveying interest in the Property.
- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON _____, 2024 AND RECORDED WITH THE KING COUNTY AUDITOR UNDER RECORDING NUMBER _____. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within 30 days of the date of execution of such document.

b. Reporting Violations. Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

c. Emergencies. For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

d. Notification procedure. Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

SWB Bellevue II LLC c/o Zeb Keck 920 Fifth Avenue, Suite 2750 Seattle, Washington 98104 (206) 626-3747 zkeck@schnitzerwest.com	Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 ToxicsCleanupProgramHQ@ecy.wa.gov
--	---

Section 5. Modification or Termination.

- a. Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:
 - i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and
 - ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.
- b. If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.
- c. By signing this Covenant, per RCW 64.70.100, the original signatories to this Covenant, other than Ecology, agree to waive all rights to sign amendments to and termination of this Covenant.

Section 6. Enforcement and Construction.

- a. This Covenant is being freely and voluntarily granted by the Grantor.
- b. Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.
- c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.

d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.

e. This Covenant shall be liberally construed to meet the intent of MTCA and UECA.

f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.

g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this 14th day of MARCH, 2024.

SWB BELLEVUE II LLC, a Washington limited liability company

Signature: [Handwritten Signature]

By: ZEB KECK (printed name)

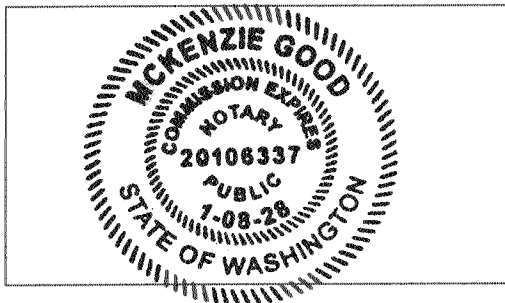
Title: AUTHORIZED REP.

CORPORATE ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

This record was acknowledged before me on March 14th, 2024, by

Zeb Keck as Authorized Representative of SWB Bellevue II, LLC.



[Handwritten Signature]
(Signature)

McKenzie Good
(Please print name legibly)

NOTARY PUBLIC for the State of
Washington
My commission expires January 8 2028

The Department of Ecology hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



by: Kim Wooten

Title: Section Manager
Toxics Cleanup Program
Northwest Regional Office

Dated: 4/1/24

Exhibit A

LEGAL DESCRIPTION

CHERITON FRUIT GARDENS PLAT # 1 LOT 1 BELLEVUE BLA#20-111234 LW
REC#20201021900001 SD BLA DAF- PCLS B & C & D BE BLA#08-116047
REC#20090127900002 BEING NLY POR LOT 2 SD BLK 2 ADJ NE 8TH ST LESS STS
LESS ST PER REC# 20211105000369

Exhibit B

PROPERTY MAP

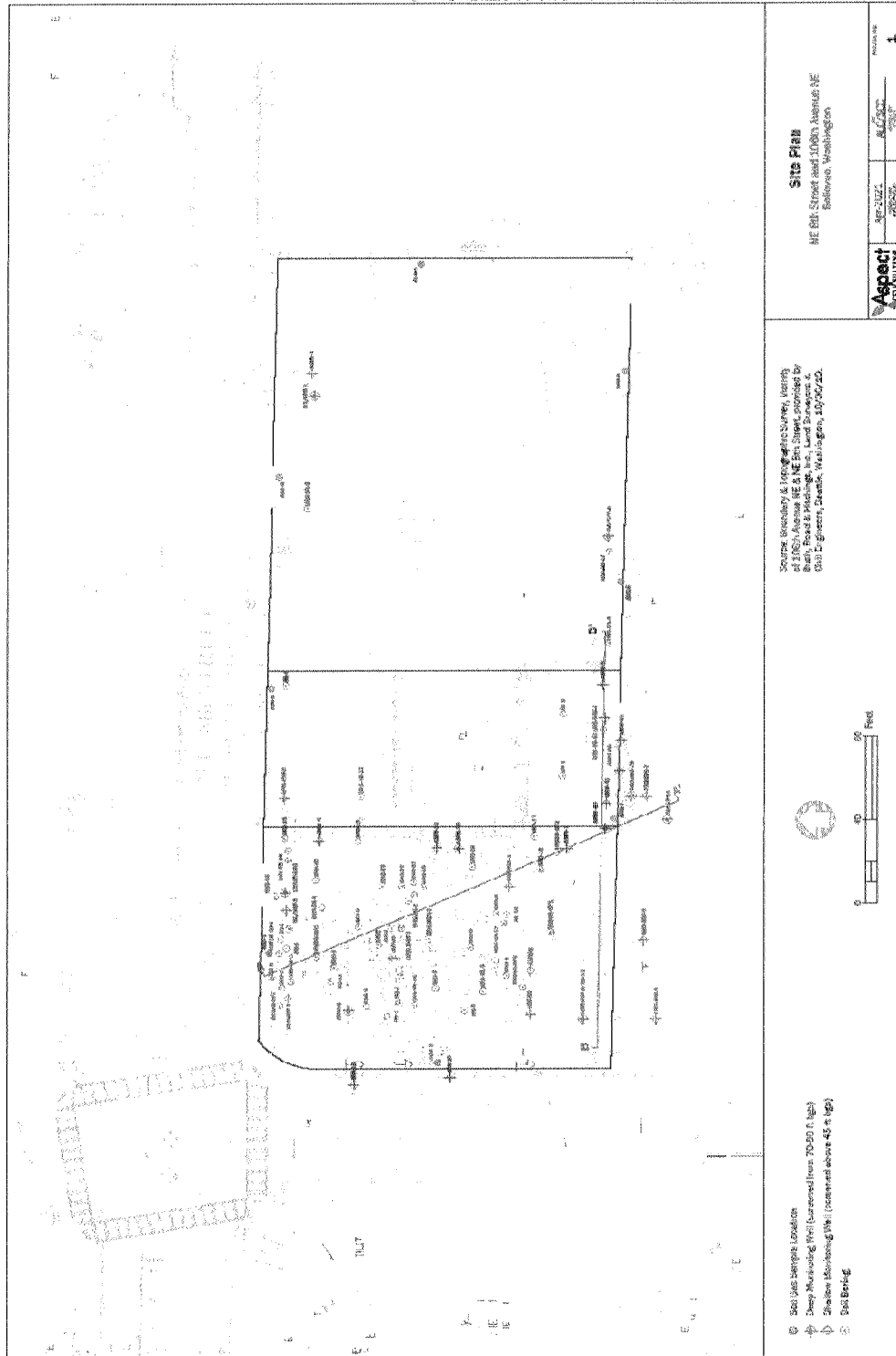


Exhibit C

MAPS ILLUSTRATING LOCATION OF RESTRICTIONS

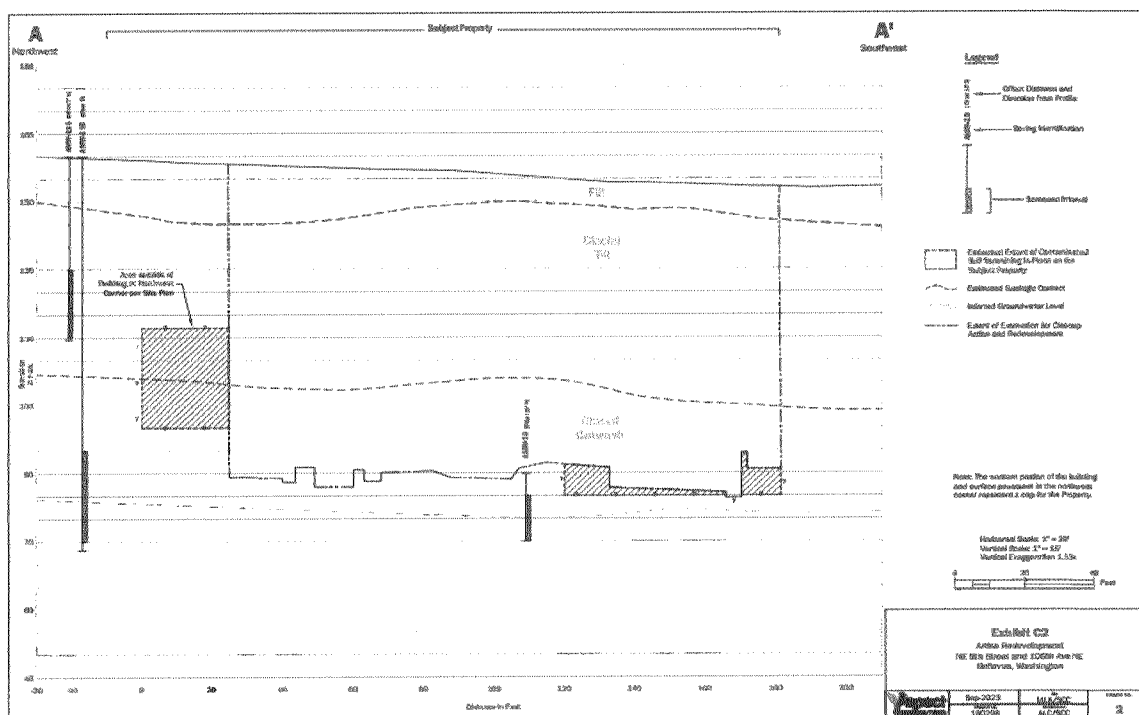
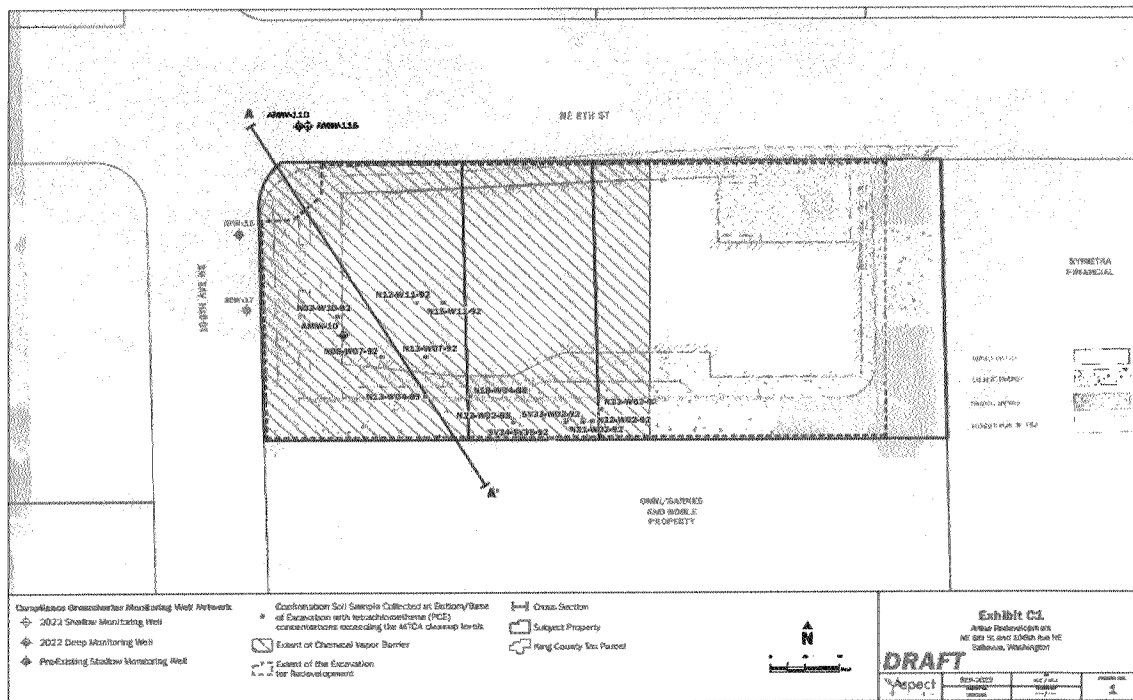


Exhibit D

SUBORDINATION AGREEMENT

KNOW ALL PERSONS, That KREF Lending I, LLC, a Delaware limited liability company, the beneficiary under and holder of that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing bearing the date of September 13, 2021, executed by SWB Bellevue II, LLC, a Delaware limited liability company, as Grantor, and recorded in the office of the County Auditor of King County, State of Washington, on September 14, 2021, under Auditor's File Number 20210914000035,, does hereby agree that said Instrument shall be subordinate to the interest of the State of Washington, Department of Ecology, under the environmental (restrictive) covenant dated _____ 2024, executed by SWB Bellevue II, LLC, a Delaware limited liability company and recorded in King County, Washington under Auditor's File Number _____.

KREF LENDING I, LLC,
a Delaware limited liability company

By: _____
Title: _____
Dated: _____

See attached

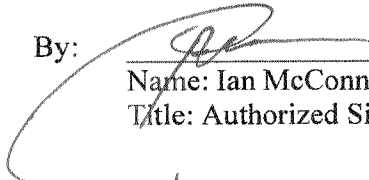
STATE OF _____

COUNTY OF _____

On this _____ day of _____, 2024, I certify that _____ personally appeared before me, acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute this instrument, and acknowledged it as the _____ of KREF Funding I, LLC, a Delaware limited liability company, to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Notary Public in and for the State of Washington
Residing at _____
My appointment expires _____

KREF LENDING I, LLC,
a Delaware limited liability company

By: 
Name: Ian McConnell
Title: Authorized Signatory

Dated: 3/14/24

Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF San Francisco) ss:

On March 14, 2024 before me, Gary Hirsch personally appeared Ian McConnell, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: 

(NOTARY SEAL)

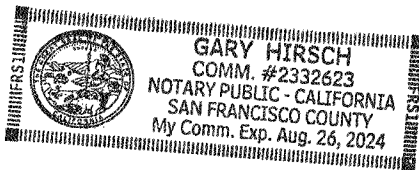


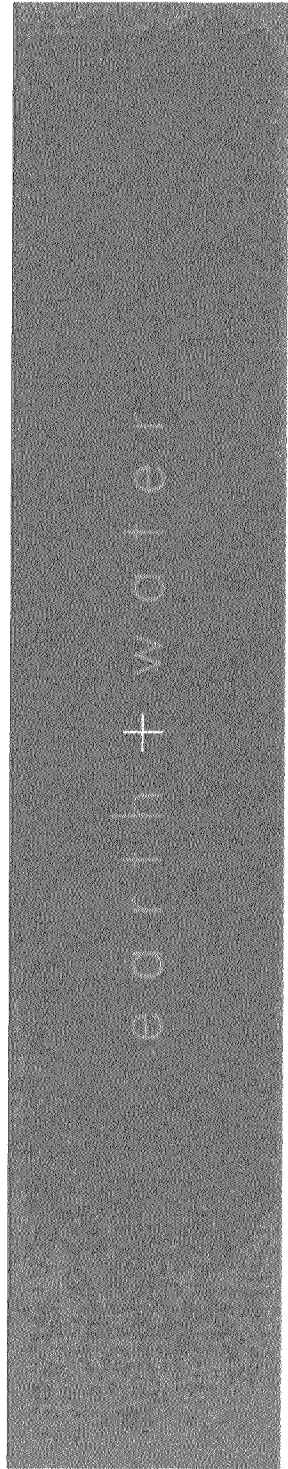
Exhibit E
**Cap Inspection and Groundwater
Monitoring Plan**

CAP INSPECTION AND
GROUNDWATER MONITORING
PLAN

NE 8th and 106th (The Artise) Redevelopment
Bellevue, Washington
Cleanup Site ID: 7649
Facility Site ID: 5569973

Prepared for: SWB Bellevue II, LLC

Project No. 190298 • February 13, 2024 FINAL





**CAP INSPECTION AND
GROUNDWATER MONITORING PLAN**
NE 8th and 106th (The Artise) Redevelopment
Bellevue, Washington
Cleanup Site ID: 7649
Facility Site ID: 5569973

Project No. 190298 • February 13, 2024 FINAL

Aspect Consulting

Ali Cochrane, LG
Senior Geologist
ali.cochrane@aspectconsulting.com



2/13/2024

Jessica A. Smith

Jessica Smith, LG
Principal Geologist
jessica.smith@aspectconsulting.com

V:\190298 Schnitzer - NE 8th and 106th Development\Deliverables\2024.02 Exhibit E - CIP + GWMP\EC Exhibit E - Cap Inspection and GWM Plan_02132024.docx

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1 Introduction

This Cap Inspection Plan (CIP) and Groundwater Monitoring Plan (GWMP) has been developed for the Artise redevelopment property at 788 106th Avenue NE in Bellevue, Washington (Subject Property). The Subject Property is currently owned by SWB Bellevue II, LLC, and is being redeveloped as The Artise, a commercial office building with multiple levels of subgrade parking.

A remedial action was conducted at the Subject Property in 2021 and 2022 in accordance with the Cleanup Action Plan (CAP; Aspect, 2020) and the Washington State Model Toxics Control Act (MTCA), Chapter 70A.305 Revised Code of Washington (RCW) and its implementing regulation Chapter 173-340 Washington Administrative Code (WAC). The purpose of the remedial action was to remove contaminated soil and groundwater associated with three sources of contamination, each of which are considered separate MTCA Sites, shown on Figure 1:

1. **Artise Site – Petroleum-contaminated soil.** Petroleum-contaminated soil on the western parcel and central parcel, sourced from former gas station and residential (likely the use of a heating oil) activities on the Subject Property, form the MTCA-defined Site for the cleanup action. The Artise Site is enrolled in the Washington State Department of Ecology’s (Ecology’s) Voluntary Cleanup Program (VCP) as “Bellevue Corner UNOCAL 4511” (VCP No. NW3259, Site No. 5569973, Cleanup Site No. 7649).
2. **Thinker Toys Site – Chlorinated solvent-contaminated soil and groundwater.** Soil and groundwater on the western portion of the Subject Property had also been affected by releases of tetrachloroethene (PCE) from an upgradient former dry-cleaner property referred to as the Thinker Toys Site. The Thinker Toys Site is enrolled in Ecology’s VCP as “Thinker Toys” (VCP No. NW2338, Site No. 2462690, Cleanup Site No. 2477).
3. **Onni 106th Ave Site (Onni Site)¹ – PCE-contaminated soil.** Shallow soil along the south property boundary had been affected by releases of PCE, likely from a catch basin located on the south-adjointing property. The Onni Site is enrolled in Ecology’s VCP as “Onni 106th Ave Bellevue LLC” (VCP No. XN0011, Site ID: 73977, Cleanup Site ID: 14996).

As described in the CAP (Aspect, 2020) and documented in the Cleanup Action Report (CAR; Aspect, 2023a), the remedial action consisted of the following components:

- **Remedial excavation** to remove contaminated soil and groundwater located within the redevelopment construction footprint to elevations ranging between 91 and 89 NAVD88 (approximately 60 to 75 feet below ground surface; bgs).

¹ The “Onni 106th Ave Site” is also referred to as the “Onni Site” and “Barnes and Noble Property” in prior reports, including the Remedial Investigation / Feasibility Study and Cleanup Action Plan (Aspect, 2020)

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Contaminated soil associated with the Artise Site and south-adjacent Onni Site was successfully excavated and removed from the Subject Property during property redevelopment; however, residual chlorinated solvent-contaminated soil and groundwater remains on the Subject Property sourced from the upgradient Thinker Toys Site.

- **Engineering controls** consisting of drainage features and a chemical vapor barrier. The drainage features included temporary and permanent drainage constructed on the shoring wall of the new development to prevent the Thinker Toys Site shallow contaminated groundwater plume from migrating vertically to the deep aquifer and to allow the shallow contaminated groundwater to migrate along its natural flow path around the foundation wall toward the west and south. The chemical vapor barrier was installed at the vertical and horizontal foundation walls covering the western two-thirds of the foundation to prevent vapor intrusion of solvents from residual Thinker Toys Site contamination below, north, and west of the new building.
- **Institutional controls** include a cap (the newly constructed building and associated hardscape) and an environmental covenant to prevent future, unrestricted development or any other activities that could create exposure pathways for direct contact with Thinker Toys Site contaminated soil remaining in place, and direct contact or use of contaminated shallow groundwater sourced from the upgradient Thinker Toys Site.
- **Compliance groundwater monitoring** was completed from deep and shallow groundwater monitoring wells over four consecutive quarters to monitor post-cleanup/construction groundwater conditions associated with the Subject Property. As expected, chlorinated solvents were present in shallow monitoring wells north (upgradient) and west of the Subject Property at concentrations greater than the MTCA cleanup levels, but were either not detected or were detected at concentrations less than the MTCA cleanup levels in the deep monitoring wells (Aspect, 2023b).

Although the mass excavation for redevelopment resulted in remediation of a portion of the Thinker Toys Site, PCE-contaminated soil and groundwater associated with the Thinker Toys Site remains beyond the redevelopment mass-excavation extent and has been documented by confirmation soil sampling and compliance groundwater sampling conducted during the cleanup action. In accordance with the CAP, the residual contamination is capped by the new building and associated hardscape features and groundwater monitoring wells have been installed.

This CIP and GWMP is included as Exhibit E of the Environmental Covenant (EC) and describe the inspections and monitoring required to be in compliance with the requirements of the EC.

2 Cap Inspection Plan

2.1 Cap Description

The cap at the Artise Site consists of the following components:

- Hard cap consisting of the foundation of the western portion of the building (approximately 8-inch-thickness of concrete), which can be accessed at the bottom floor of the parking garage; and,
- Hardscape areas at street level consisting of asphalt roadway and concrete sidewalk overlaying the contained contaminated soil and groundwater in the northwest corner of the Subject Property.

The purpose of the cap is to minimize the potential for contact with contaminated soil and groundwater. The building foundation and hardscape areas are shown relative to residual soil contamination on Exhibits C1 and C2 of the EC.

2.2 Cap Requirements

As described in the EC, existing structures, pavement, and soil shall not be removed from the Subject Property in any manner that would expose contaminated soil, result in a release of contaminants to the environment, or create an exposure pathway. If any portion of the cap needs to be removed or disturbed, prior written approval from Ecology will be required.

2.3 Cap Inspections

The property owner (or owner's representative) is responsible for conducting inspections to ensure that the cap features (building foundation and hardscape areas) described in Section 2.1 continue to provide effective protection against direct-contact exposure to underlying contaminated soil and groundwater. Inspections shall be completed on an annual basis and shall consist of a visual survey of the cap surface to evaluate the presence of cracks, breaks, or other impacts to the cap integrity.

If a potential cap breach or other potential deficiency is reported to the property owner by a tenant or others, it shall trigger an immediate (non-routine) inspection. Non-routine inspections shall also be conducted following an event that could potentially damage the cap, such as an earthquake.

Inspections shall be documented on a Cap Inspection Record (Form 1), which provides a checklist of items to be addressed. If a condition of potential concern is observed (e.g., a breach in the cap), the property owner shall immediately take steps to limit access to the area of concern, evaluate the condition and, if necessary, initiate cap maintenance as discussed in Section 2.4.

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The property owner shall submit Cap Inspection Records to Ecology² within 30 days of conducting an inspection. This submittal shall also include Cap Inspection Records for any non-routine inspections conducted during the year (i.e., since the previous submittal).

2.4 Cap Maintenance

The property owner (or owner's representative) is responsible for providing any maintenance that is required to ensure that the cap remains functional. Maintenance will be performed on an as-needed basis when a deficiency is determined to exist. Maintenance shall restore the cap to meet the minimum requirements described in Section 2.2, or alternate requirements approved by Ecology. In accordance with the EC, the property owner shall notify Ecology within 48 hours of discovering a deficiency in the cap, and then promptly repair the cap damage to restore its function.

Maintenance activities to address breaches of or damage to the cap will be documented on a Cap Maintenance Record (Form 2). Documentation shall include a detailed description of the problem (in Section 1 of the form) and of the maintenance performed (in Section 2 of the form). The location of the work will be clearly indicated on a figure, and photographs should be taken both before and after maintenance is performed. The Cap Maintenance Records and photographs will be used to track and document cap repairs. The individual who identifies a maintenance item will complete Section 1 of the Cap Maintenance Record. The individual responsible for coordinating and approving maintenance will complete Section 2 of the form when the repair has been completed. The property owner shall submit the completed Cap Maintenance Record and associated documentation to Ecology within 30 days of completing the repair.

3 Groundwater Monitoring Plan

One new groundwater monitoring well (AMW-10) is located on the Subject Property, two additional new groundwater monitoring wells (AMW-11S, and AMW-11D) are located in the right-of-way (ROW) to the north of the Subject Property, and two pre-existing monitoring wells (MW-17 and MW-18) are located in the ROW west of the Subject Property (Figure 2). Monitoring wells AMW-10 and AMW-11D are screened in the deep regional aquifer and AMW-11S, MW-17, and MW-18 are screened in the shallow groundwater zone (Aspect, 2023a and 2023b). This section outlines plans to protect these wells and for monitoring groundwater at the Subject Property.

3.1 Monitoring Wells Protection

Due to the unremediated upgradient contaminated groundwater plume from the Thinker Toys Site, shallow groundwater beneath the northwest corner of the Subject Property remains contaminated and deep groundwater may become contaminated. To facilitate potential future monitoring of the Thinker Toys Site contaminated groundwater plume, the monitoring wells located at the Subject Property will be protected.

² The Ecology contact person is identified in the EC.

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The monitoring wells shall remain accessible and protected from damage until Ecology states in writing that they may be decommissioned. If any of these wells are damaged, Ecology must be notified within 48 hours. Unless Ecology approves of an alternative plan in writing, the damaged monitoring well will be promptly repaired and a report documenting the work will be submitted to Ecology.

3.2 Groundwater Performance Monitoring

Because the groundwater contamination is sourced solely from the upgradient Thinker Toys Site and is not associated with the Artise Site, ongoing compliance monitoring and/or monitored natural attenuation (MNA) is not a requirement of the EC for the Subject Property. However, the property owner will complete one groundwater monitoring event 5 years post closure of the Artise Site in support of Ecology's 5-year periodic review of the cleanup action conducted at the Subject Property. During this sampling event, groundwater samples will be obtained from each of the five monitoring wells (MW-17, MW-18, AMW-10, AMW-11S, and AMW-11D) and will be submitted for chemical analysis of chlorinated solvents. These results will be summarized in a groundwater monitoring report for submittal to Ecology.

3.3 Monitoring Well Decommissioning

Following the sampling event at the 5-year review period, the property owner may request to decommission monitoring wells AMW-10, AMW-11S, and AMW-11D. If Ecology approves the requested, the monitoring wells will be properly decommissioned by a licensed driller in accordance with the requirements of WAC 173-160-460.

Ecology or others may elect to continue to maintain the wells as part of the Thinker Toys investigation. In this case, although the property owner will still provide access to the monitoring well located on the Subject Property (AMW-10), the monitoring wells will no longer be the responsibility of the Subject Property owner and will be maintained, sampled, and eventually decommissioned by others, in accordance with a future agreement between the property owner and Ecology or others.

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4 References

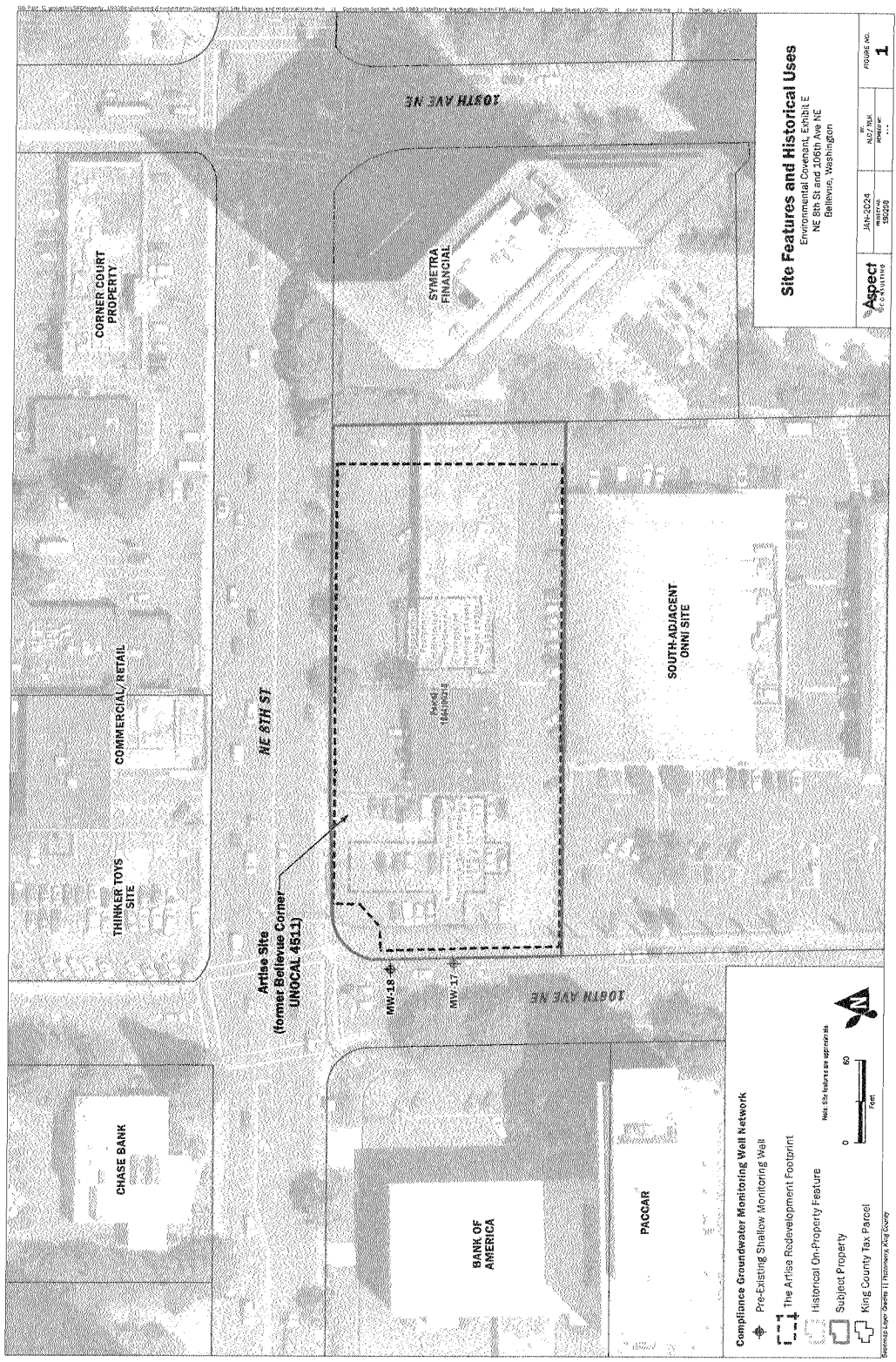
- Aspect Consulting, LLC (Aspect), 2020, Remedial Investigation/Feasibility Study and Cleanup Action Plan, NE 8th and 106th (The Artise) Redevelopment, Bellevue, Washington, dated November 20, 2020.
- Aspect Consulting, LLC (Aspect), 2023a, Cleanup Action Report, NE 8th and 106th (The Artise) Redevelopment, Bellevue, Washington, dated September 15, 2023.
- Aspect Consulting, LLC (Aspect), 2023b, Groundwater Monitoring Report, NE 8th and 106th (The Artise) Redevelopment, Bellevue, Washington, dated September 15, 2023.

5 Limitations

Work for this project was performed for SWB Bellevue II, LLC (Client), and this report was prepared in accordance with generally accepted professional practices for the nature and conditions of work completed in the same or similar localities, at the time the work was performed. This report does not represent a legal opinion. No other warranty, expressed or implied, is made.

All reports prepared by Aspect Consulting for the Client apply only to the services described in the Agreement(s) with the Client. Any use or reuse by any party other than the Client is at the sole risk of that party, and without liability to Aspect Consulting. Aspect Consulting's original files/reports shall govern in the event of any dispute regarding the content of electronic documents furnished to others.

FIGURES

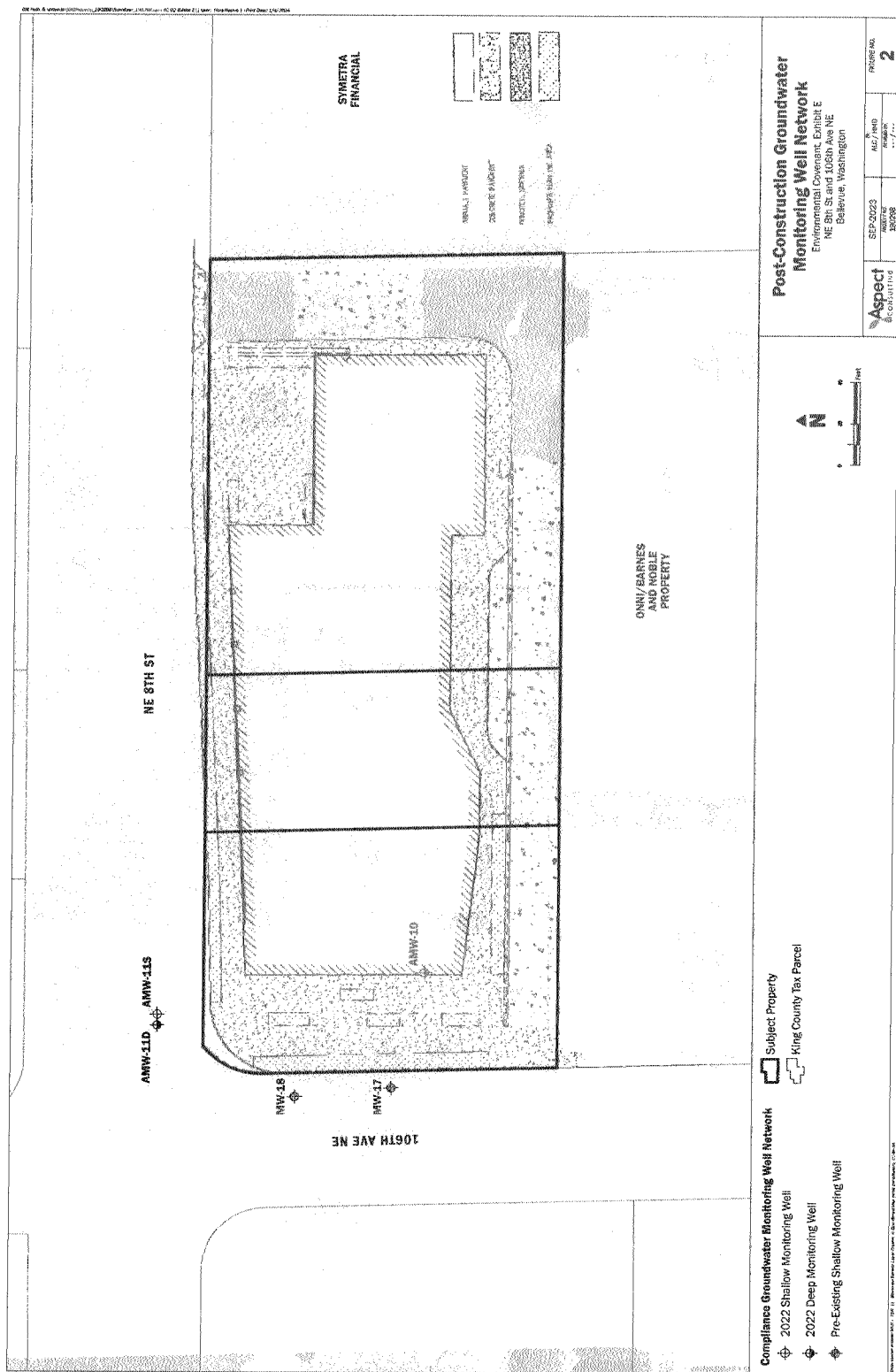


- Compliance Groundwater Monitoring Well Network
 - Pre-Existing Shallow Monitoring Well
 - The Artise Redevelopment Footprint
 - Historical On-Property Feature
 - Subject Property
 - King County Tax Parcel
- Max. Dist. between any two monitoring wells is approximately 60 Feet

Site Features and Historical Uses
 Environmental Covenant, Exhibit E
 NE 5th St and 106th Ave NE
 Bellevue, Washington


PROJECT NO.	1
DATE	JAN 2024
BY	JAN 2024
REVISED	AS NOTED
PROJECT	350208

Aspect
 Environmental



APPENDIX A

**Cap Inspection Record and
Cap Maintenance Record Forms**



Property Address: 10605 NE 8th Street, Bellevue, Washington
 Ecology IDs: FS No. 5569973, CS No. 7649, VCP No. NW3259

Date: _____
 Inspector's Name: _____
 Inspector's Signature: _____

Weather Conditions: _____
 Inspector's Title/Affiliation: _____

Routine Inspection Non-Routine Inspection

Provide the reason if conducting a non-routine inspection:


Cap Inspection and Maintenance Plan, The Artise (Bellevue Corner UROCAL 4811)
 Bellevue, Washington

INSPECTION ITEM ¹	None	Repair Needed	COMMENTS/NOTES
FORM 1 - CAP INSPECTION RECORD			
1. Street Level Hardscape Areas (northwest corner of Property)			
a. Absence of pavement or concrete?			
b. Cracks or ruts in pavement or concrete?			
c. Damage, unusual disturbance?			
d. Subsurface settlement or ponding?			
2. Building Foundation Hard Cap Areas (bottom level of parking garage in the western portion of building)			
a. Absence of pavement or concrete?			
b. Cracks or ruts in pavement or concrete?			
c. Damage, unusual disturbance?			
d. Subsurface settlement or ponding?			
Deficient Action Items & Other Comments:			

Notes

¹) Inspect entire capped area and identify areas that represent potential for direct contact exposure to or erosion of capped material. Attach a marked-up property sketch or aerial photograph, indicating areas inspected, locations of problem areas (examples above), and inaccessible areas. Include photos of problem areas, if observed.

Revision: September 2023

	Revision: September 2023	
	Property Address: 10605 NE 8th Street, Bellevue, Washington Ecology IDs: FS No. 5569973, CS No. 7649, VCP No. NW3259	
FORM 2 - CAP MAINTENANCE RECORD	Cap Inspection and Maintenance Plan, The Artise (Bellevue Corner UNOCAL 4511) Bellevue, Washington	
SECTION 1		
Problem Description:	Date Deficiency Observed: _____	Deficiency Reported By: _____
SECTION 2		
Maintenance Performed:	Firm Performing Maintenance: _____	Maintenance Start Date: _____
		Maintenance Completion Date: _____
Approved By Property Owner		
Printed Name: _____		
Signature: _____		
Title/Affiliation: _____		
Date: _____		

Enclosure B

Site Description, History, and Diagrams

Site Description

Site: The Site is defined by the following releases: TPH-G, TPH-D, TPH-O, benzene, PCE, TCE, and cPAHs into soil; and PCE, TCE, and vinyl chloride into groundwater and soil vapor. The Site is located on the southeast corner of the NE 8th Street and 106th Avenue NE intersection in Bellevue, Washington (the Property, Figure 1). The PCE and TCE on the Site has resulted from releases at the Thinker Toys site (Facility Site ID 2462690) and the Onni 106th Ave Bellevue LLC site (Facility Site ID 73977), located as shown on Figure 2.

Area and Property Description: The Site is surrounded by numerous commercial and multi-story residential developments. The Site is currently occupied to the full extent of the parcel boundary by The Artise, a 25-story mixed use commercial and retail building with six levels of underground parking.

Site History and Current Use: The current 1.45-acre parcel that includes the Site (King County parcel 154410-0215) was formerly three adjacent parcels (Figure 2). The western parcel was 0.43 acres in size and was reportedly undeveloped until 1958, when a retail gasoline service station was constructed on the parcel by an unknown operator. The gas station consisted of separate shop and station buildings, three gasoline underground storage tanks (USTs), a waste oil UST, and a heating oil UST (Figure 3).

In 1969, the gas station was redeveloped by Unocal as a Union 76 gasoline service station. The station included two 10,000-gallon gasoline USTs, a heating oil UST, a waste oil UST, three hydraulic hoists, an oil-water separator, and a dry well (Figure 3). The station operated until 1991 when the building was demolished and the USTs, hoists, and oil-water separator were removed. Approximately 2,000 cubic yards of petroleum-impacted soil were excavated during the closure work and disposed at a permitted off-Site facility. A No Further Action (NFA) finding for the Site was issued by Ecology in July 1992; however, that NFA was deemed invalid due to additional Site characterization information provided to Ecology in 2013 and 2014. The gas station parcel was used as a gravel parking lot from 1992 to 2021.

The middle and eastern parcels were part of the Cheriton Fruit Gardens from approximately 1930 to 1958, a land use that included fruit trees, berry plants, and berry fields in agricultural use. A residence was reportedly located on the eastern parcel (Figure 2). A 11,250-square foot masonry commercial building was constructed in the early 1960s on the middle and eastern parcels for use as office and retail space. This building was demolished in 2021 during Site redevelopment.

Sources of Contamination: The sources of petroleum hydrocarbon contamination at the Site were the former USTs and associated product piping and dispensers, and potentially the former service garage waste oil UST, dry well, and hydraulic hoists. The sources of PCE and TCE detected in soil and groundwater at the Site are the Thinker Toys and Onni 106th Ave Bellevue LLC sites.

Physiographic Setting: The Property is situated within the Interlake Drift Upland, a topographic highland bordered by Lake Washington on the west and the Lake Sammamish/Sammamish River valley to the east. The upland surface was molded into a series of north-south trending ridges and valleys. Elevations at the Site range from approximately 150 to 170 feet above mean sea level, with a slope from northeast to southwest.

Surface/Stormwater System: Surface water runoff from the Site and surrounding area is captured in the City of Bellevue's stormwater drainage system. The runoff is directed to the southwest towards Meydenbauer Creek, the surface water body closest to the Site. This creek, and its tributaries historically drained much of downtown Bellevue, but now that drainage is mostly underground in culverts. The creek daylights about ½-mile southwest of the Property, where it flows to the south and west before discharging into Lake Washington.

Ecological Setting: The downtown area near the Site has little ecological habitat, except for limited landscaping around commercial buildings. The land surface on the Site is covered by paving and buildings.

Geology: Numerous borings show that the pre-development Site was underlain by approximately 5 to 15 feet of fill on top of the glacial till (silt, sand, and gravel), which extends to depths of approximately 35 to 40 feet below ground surface (bgs). This unit contains some sandy zones, particularly at depths of 20 to 35 feet bgs, where perched groundwater is encountered. Below the glacial till is a deposit consisting of silt, sand, and gravel that has been interpreted as glacial advance outwash that extends to a maximum explored depth of approximately 100 feet bgs (Figure 4). A blue-gray dense, sandy silt layer was encountered beneath the advance outwash at depths ranging from 90 to 100 feet bgs in some borings.

Groundwater: The uppermost groundwater at the Site occurs in a perched zone within sand lenses in the till. This water-bearing zone occurs between 20 and 35 feet bgs, with static groundwater levels generally 22 to 30 feet bgs. Lateral flow in the perched zone is to the south or southwest (Figure 5).

A lower aquifer was also identified within the advance outwash below 74 feet bgs, with static groundwater levels ranging from 74 to 93 feet bgs. Based on groundwater-level elevation data from deep-zone monitoring wells, the groundwater flow direction in the deep zone is to the southeast (Figure 5).

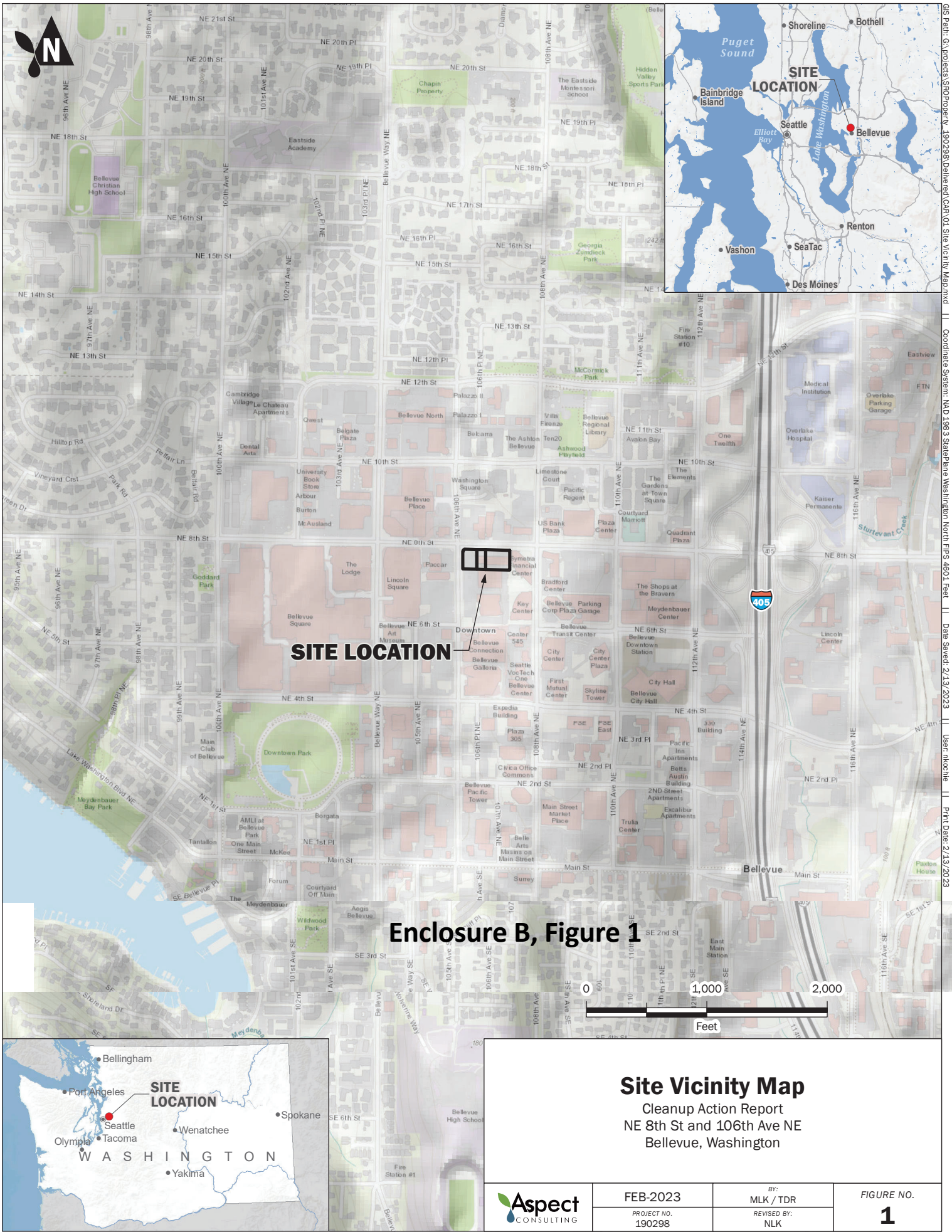
Extent and Cleanup of Contamination:

The distribution of soil and groundwater contamination at the Site was documented by subsurface investigations completed from 1990 through 2020, prior to Site redevelopment. Borings completed on the Site identified the extent of shallow petroleum contamination in soil (Figure 6) and found no petroleum impacts to groundwater. PCE impacts to Site soil and groundwater (Figures 7 and 8, respectively) are attributed to migration of the PCE plume from

the Thinker Toys site (Figure 9). PCE found in soil near the southern Site boundary likely originated from the south-adjacent Onni 106th Ave Bellevue LLC site (Figure 7).

The cleanup described above in this NFA opinion letter is graphically illustrated on the cross section shown on Figure 4. All petroleum-contaminated soil was removed during excavation of the building foundation. Locations of PCE-contaminated soil and groundwater remaining after completion of the Site cleanup are shown on Figures 10 and 11, respectively, and are managed by the environmental covenant (Enclosure A).

Site Diagrams



SITE LOCATION

Enclosure B, Figure 1

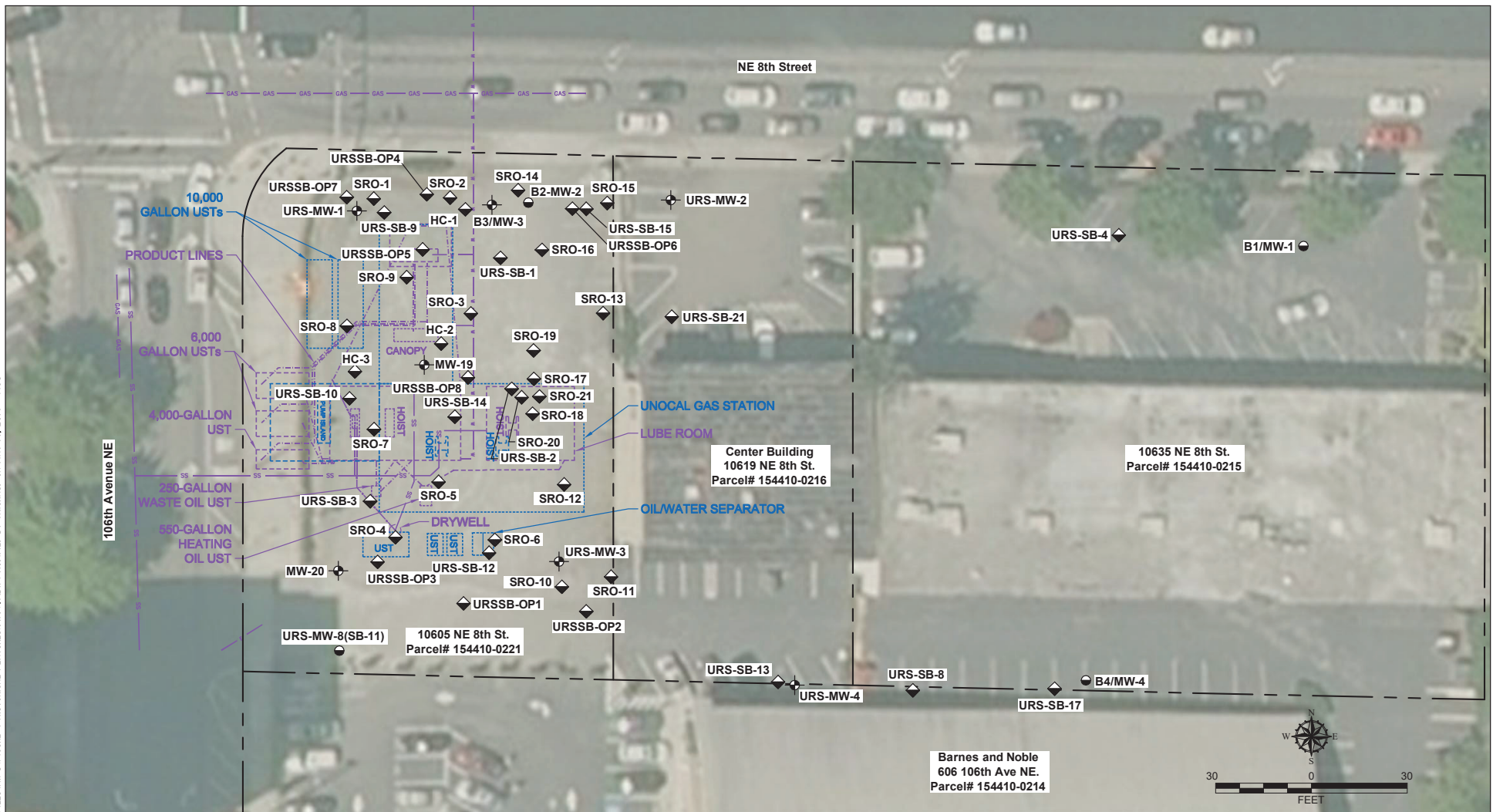
Site Vicinity Map

Cleanup Action Report
 NE 8th St and 106th Ave NE
 Bellevue, Washington

	FEB-2023	BY: MLK / TDR	FIGURE NO. 1
	PROJECT NO. 190298	REVISED BY: NLK	

Basemap Layer Credits || Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community
 Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

P:\19272700\100\CAD\03_SHEET FILES\RIFS\FIGURE 4 HISTORICAL FEATURES.DWG(TAB:F) MODIFIED BY THICKAID ON MAY 14, 2016 - 9:36



Notes

1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. cannot guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

Reference: Background image obtained from Bing Images, 2012. Historical Site features from Sound Earth Strategies, Inc., 2011 figure.

Legend

- Monitoring Well Location
- Deep Monitoring Well Location
- Soil Boring Location
- Approximate Parcel Boundaries
- HC** Hart Crowser Soil Boring
- URS** URS Soil Boring/Well

- SRO** Farallon Soil Boring
- B1/MW-1** Terra Associates Soil Boring/Well
- Historical Site Feature (1959-1962)
- Historical Site Feature (1969)

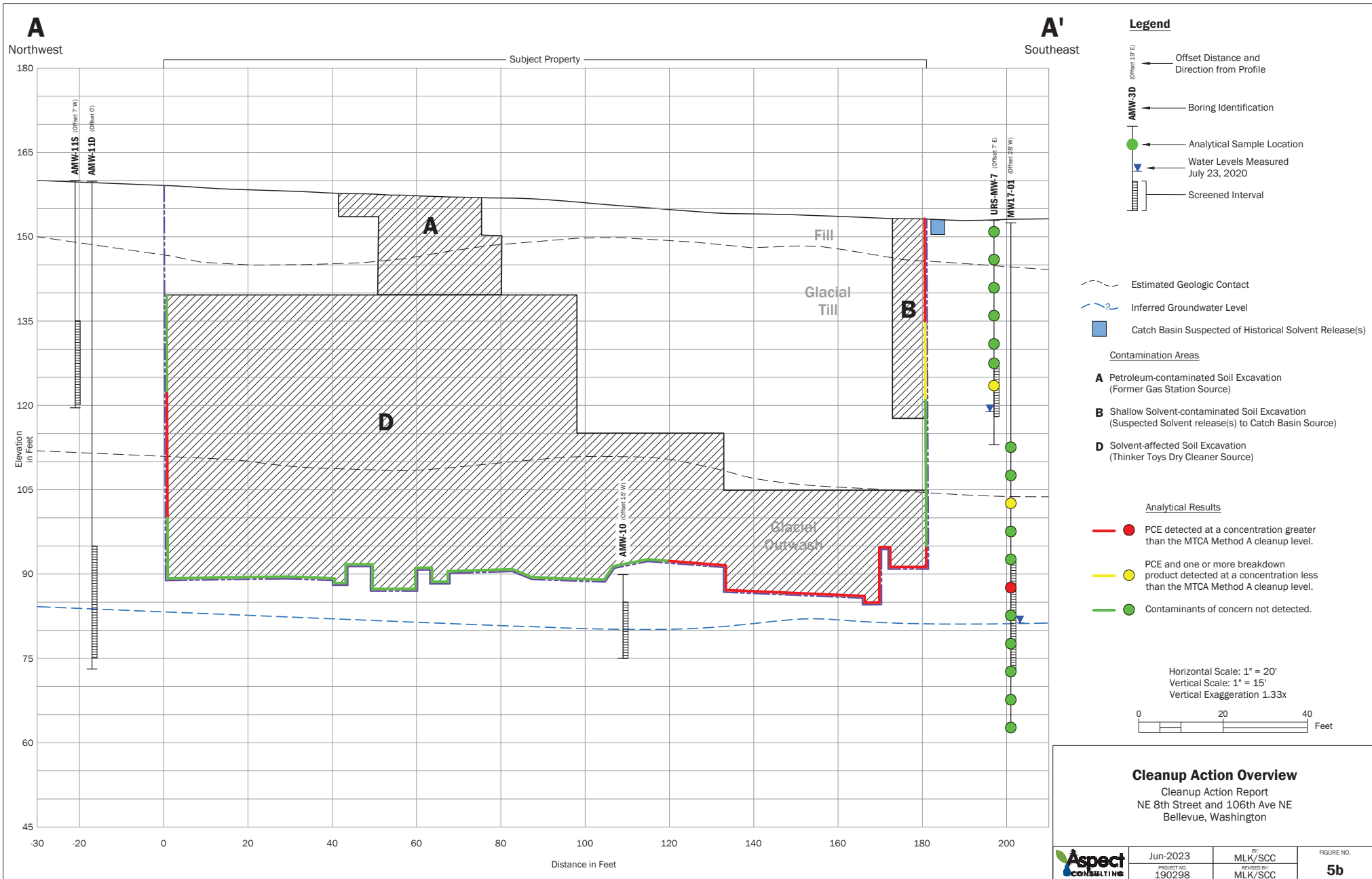
Historical Features and Sample Locations

SRO, 10605 and 10619 NE 8th Street
Bellevue, Washington



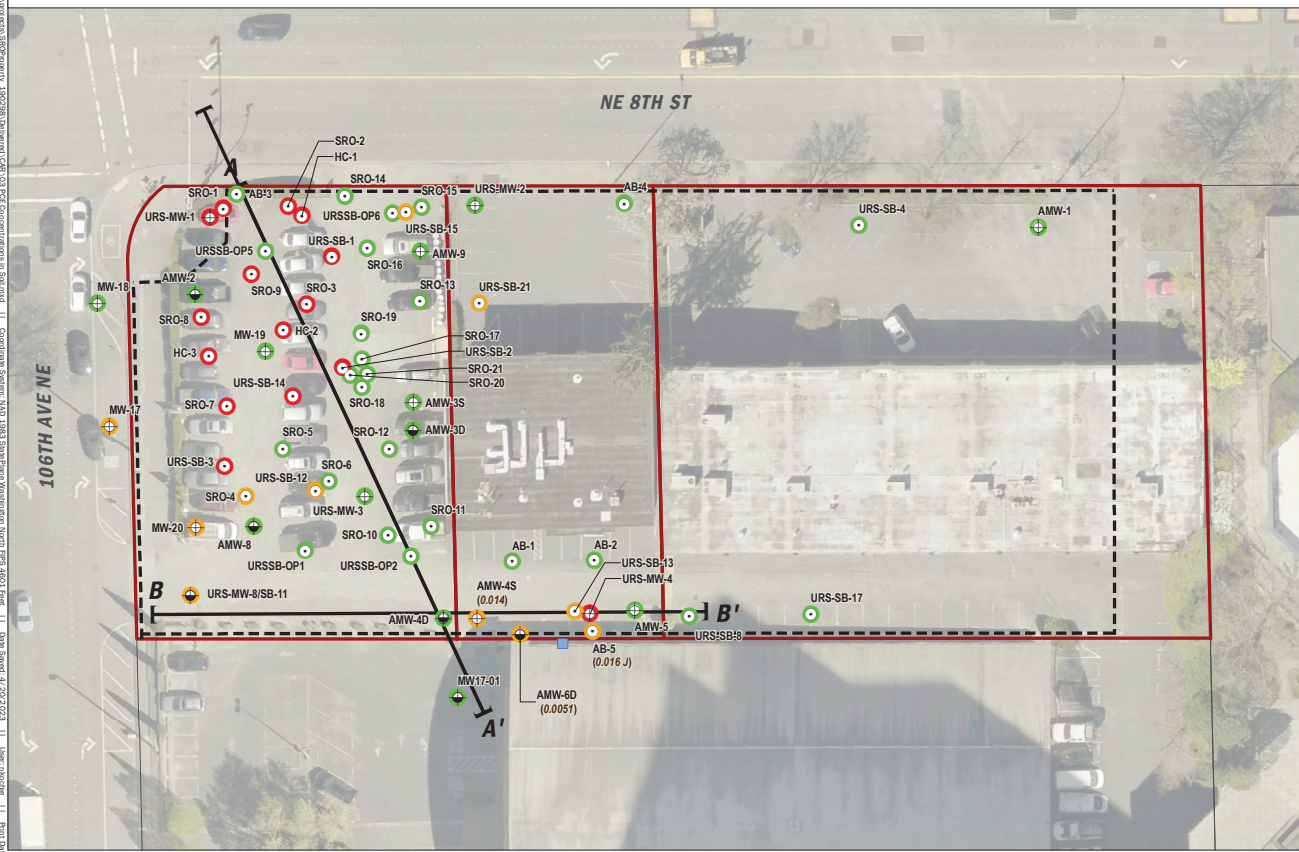
Figure 4

Enclosure B, Figure 3

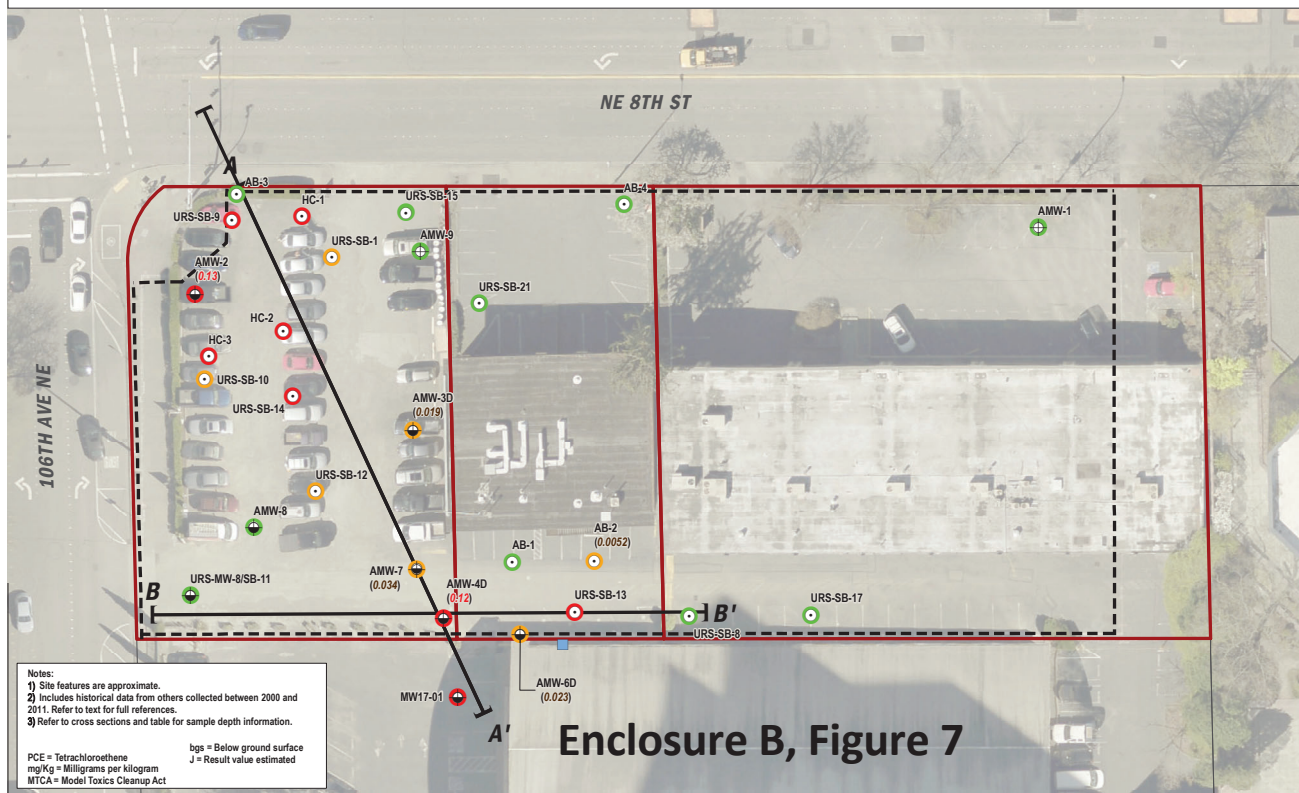


Enclosure B, Figure 4

PCE IN SHALLOW SOIL (0 TO 40 FT BGS)



PCE IN DEEP SOIL (>40 FT BGS)



Notes:
 1) Site features are approximate.
 2) Includes historical data from others collected between 2000 and 2011. Refer to text for full references.
 3) Refer to cross sections and table for sample depth information.

PCE = Tetrachloroethene
 mg/Kg = Milligrams per kilogram
 MTCA = Model Toxics Cleanup Act

bgs = Below ground surface
 J = Result value estimated

Enclosure B, Figure 7

- PCE concentration exceeds the MTCA Method A cleanup level of 0.05 mg/Kg.
- PCE concentration less than the MTCA Method A cleanup level of 0.05 mg/Kg.
- PCE not detected.
- + Monitoring Well
- + Deep Monitoring Well
- Soil Boring
- Cross Section
- Proposed Extent of the Excavation for Redevelopment
- Catch basin suspected of historical solvent release(s)
- Subject Property
- King County Tax Parcel

Exploration name → + AMW-4D (0.12)
 PCE concentration in mg/Kg ↑

N
↑
 0 45
 Feet

Pre-excavation PCE Concentrations in Soil

Cleanup Action Report
 NE 8th St and 106th Ave NE
 Bellevue, Washington

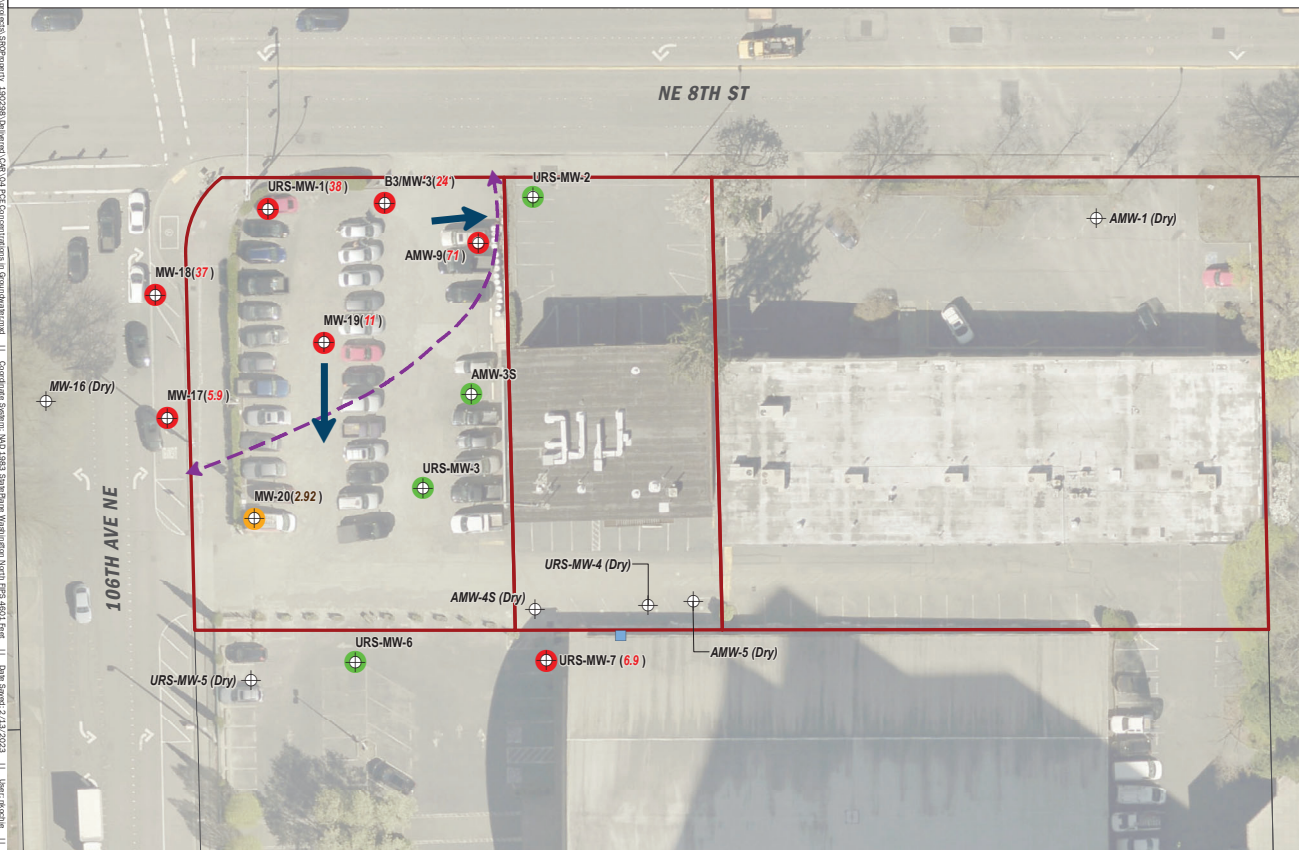


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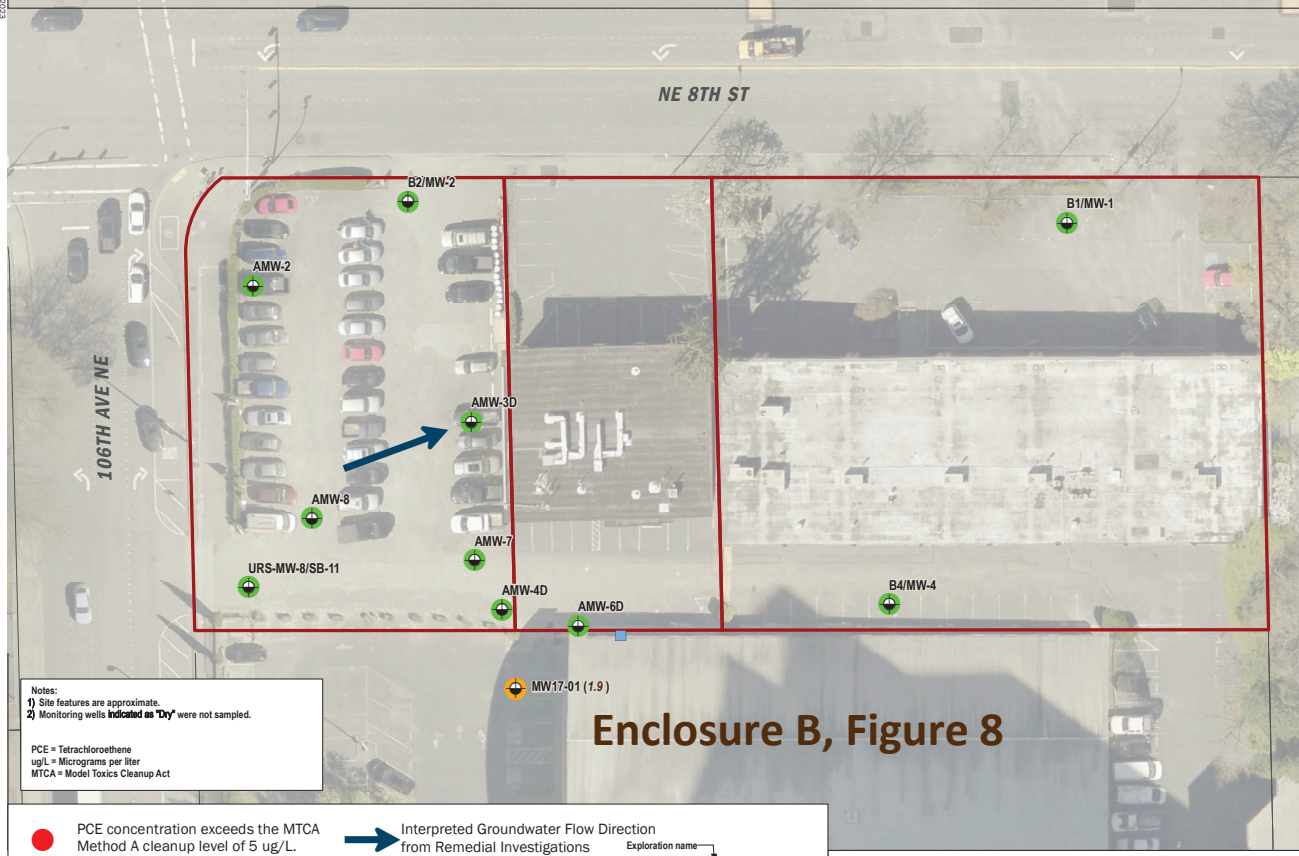
BY:
 MLK / TDR
 REVISED BY:
 WEG

FIGURE NO.
3

PCE IN SHALLOW GROUNDWATER (134 to 130 FT ELEVATION)



PCE IN DEEP GROUNDWATER (83 to 80 FT ELEVATION)



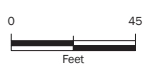
- Notes:
 1) Site features are approximate.
 2) Monitoring wells indicated as "Dry" were not sampled.

PCE = Tetrachloroethene
 ug/L = Micrograms per liter
 MTCA = Model Toxics Cleanup Act

- PCE concentration exceeds the MTCA Method A cleanup level of 5 ug/L.
- PCE concentration less than the MTCA Method A cleanup level of 5 ug/L.
- PCE not detected.
- ⊕ Monitoring Well
- ⊕ Deep Monitoring Well
- ⬆ Interpreted Extent of MTCA Exceedances in Groundwater (Thinker Toys Release)

- ➔ Interpreted Groundwater Flow Direction from Remedial Investigations
- Catch basin suspected of historical solvent release(s)
- Subject Property
- King County Tax Parcel

Exploration name
 MW-19 (31)
 PCE concentration in ug/L



Enclosure B, Figure 8

PCE Concentrations in Groundwater

Cleanup Action Report
 NE 8th St and 106th Ave NE
 Bellevue, Washington

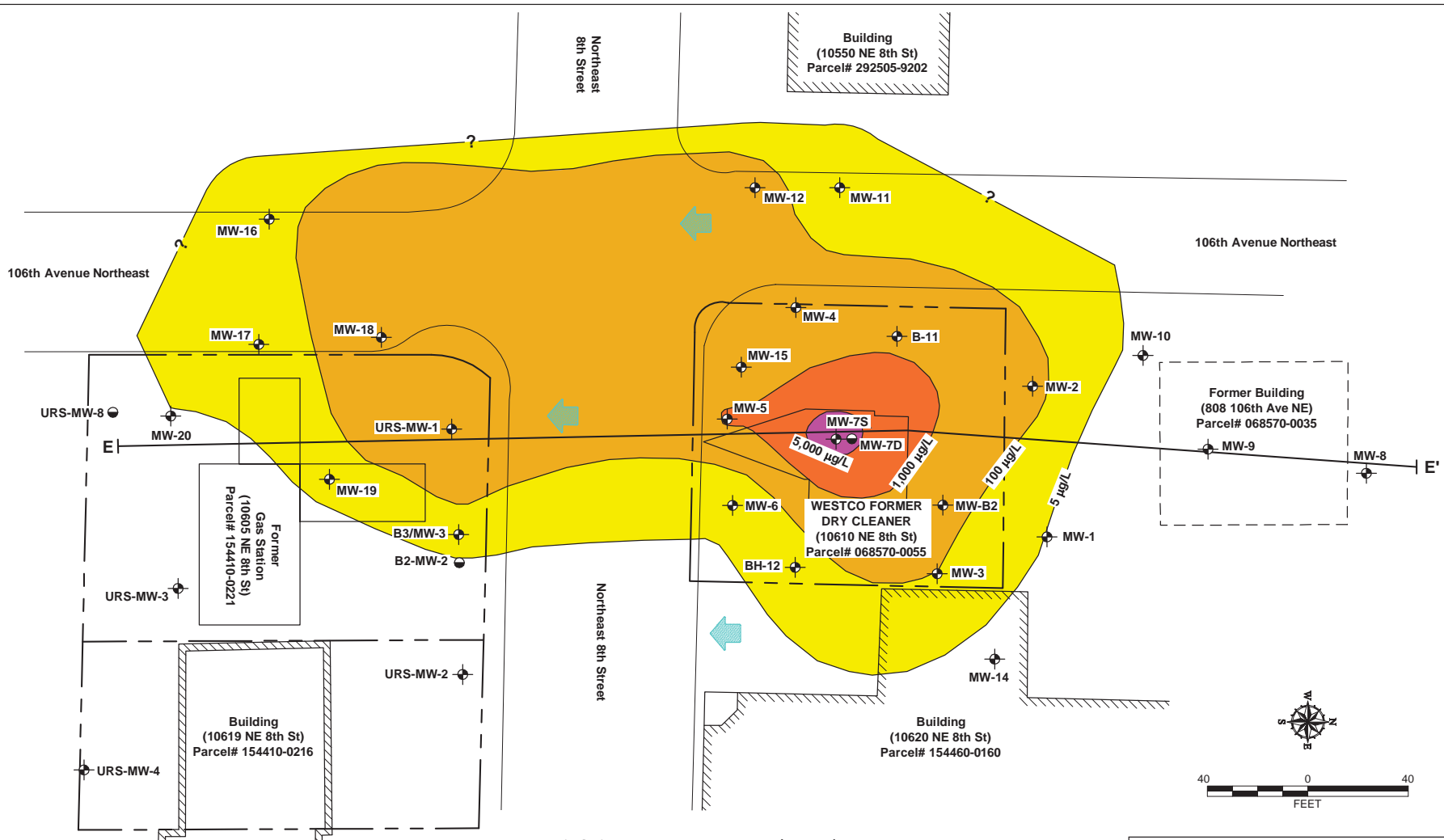


FEB-2023
 PROJECT NO.
 190298

BY
 MLK / TDR
 REVISED BY
 NLK

FIGURE NO.
4

P:\1922700\CAD\03_SHEET FILES\RFS\FIGURE 10_12_13.DWG\TAB\F12 MODIFIED BY THICHAUD ON MAY 14, 2014 - 10:22



Notes

1. PCE groundwater data for SRO Property Wells is shown in Table 3.
2. The locations of all features shown are approximate.
3. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. cannot guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

Reference: Background image provided by URS, dated 2011. Modified by GeoEngineers.

Tetrachloroethene (PCE) Concentrations

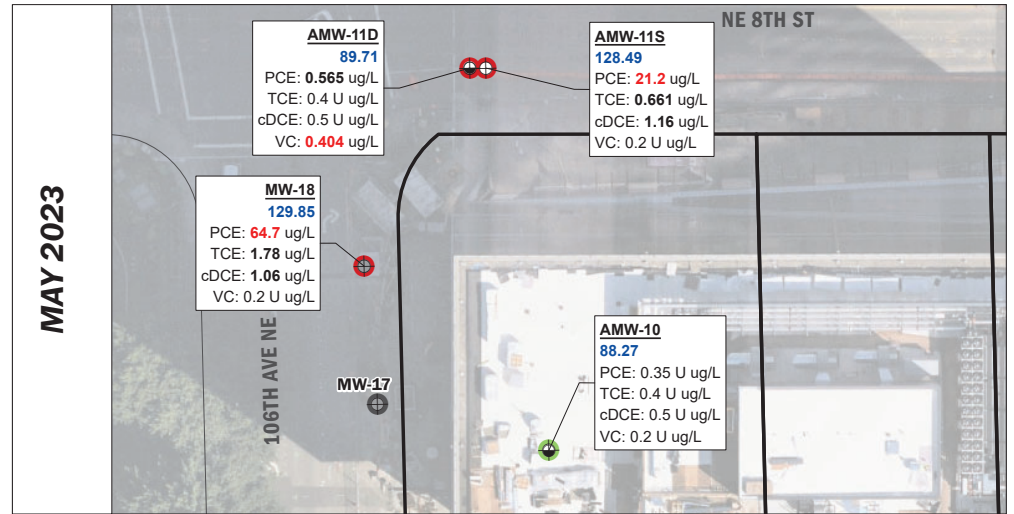
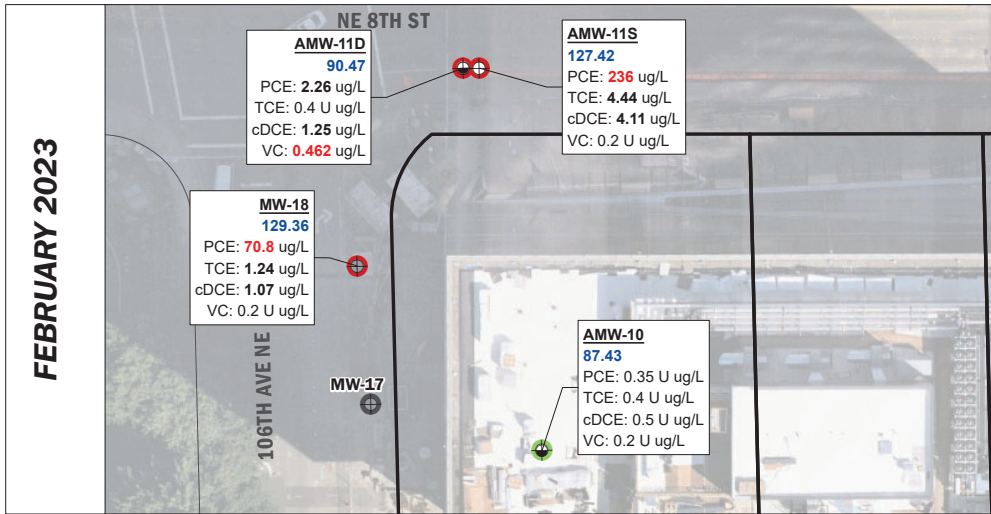
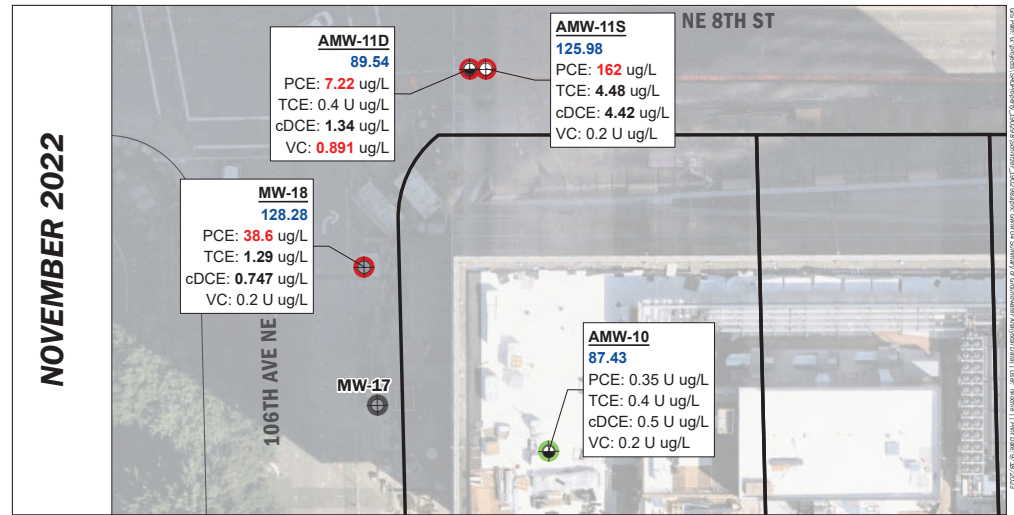
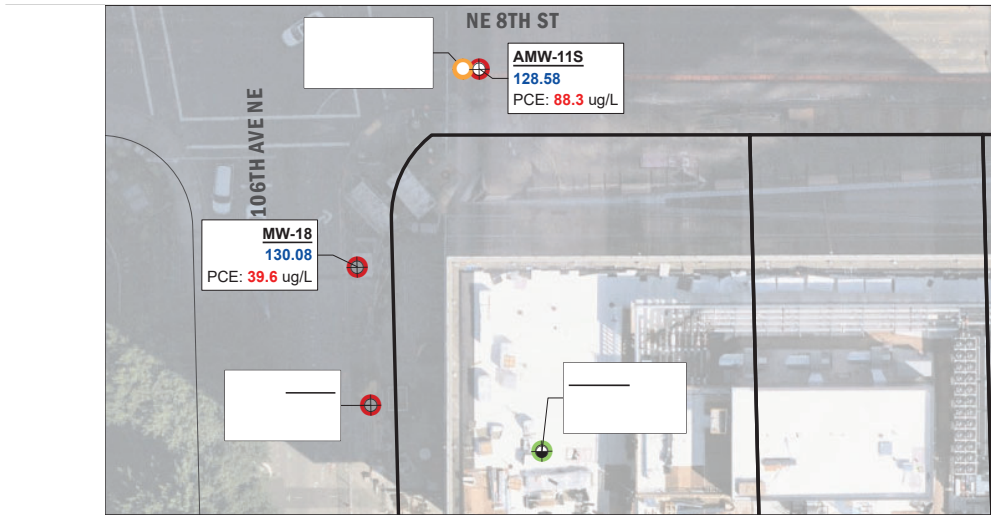
- 5 to 100 µg/L
- MTCA Method A Cleanup Level = 5 µg/L
- 100 to 1,000 µg/L
- 1,000 to 5,000 µg/L
- > 5,000 µg/L

Legend

- Monitoring Well Location
- Deep Monitoring Well Location
- Approximate Parcel Boundaries
- Approximate PCE Iso-Concentration Contours (µg/L) for August 2010
- Approximate Groundwater Flow Direction in Perched Interval

PCE Perched Groundwater Contamination Map (August 2010)	
SRO, 10605 and 10619 NE 8th Street Bellevue, Washington	
GEOENGINEERS	Figure 12

Enclosure B, Figure 9



Compliance Groundwater Monitoring Well Network

- ⊕ 2022 Shallow Monitoring Well
- ⊕ 2022 Deep Monitoring Well
- ⊕ Pre-Existing Shallow Monitoring Well

Groundwater Analytical Result

- COCs detected at a concentration greater than the MTCA Method A cleanup level
- COCs detected at a concentration less than the MTCA Method A cleanup level
- COCs not detected
- Not sampled

- ⊕ Subject Property
- ⊕ King County Tax Parcel

AMW-11S
128.58
PCE: 88.3 ug/L

← Well ID
← Groundwater Elevation (NAVD88 feet)
← Sample Result

- Notes:
- COC = Chemicals of Concern
 - PCE = Tetrachloroethene
 - TCE = Trichloroethene
 - cDCE = cis-1,2-Dichloroethene
 - VC = Vinyl Chloride



Summary of Groundwater Analytical Data

Groundwater Monitoring Report
NE 8th St and 106th Ave NE
Bellevue, Washington



SEP-2023

Data source credits: MxK/ TDR | Basemap Service Layer Credits: © OpenStreetMap (and) contributors, CC-BY-SA

Enclosure B, Figure 11

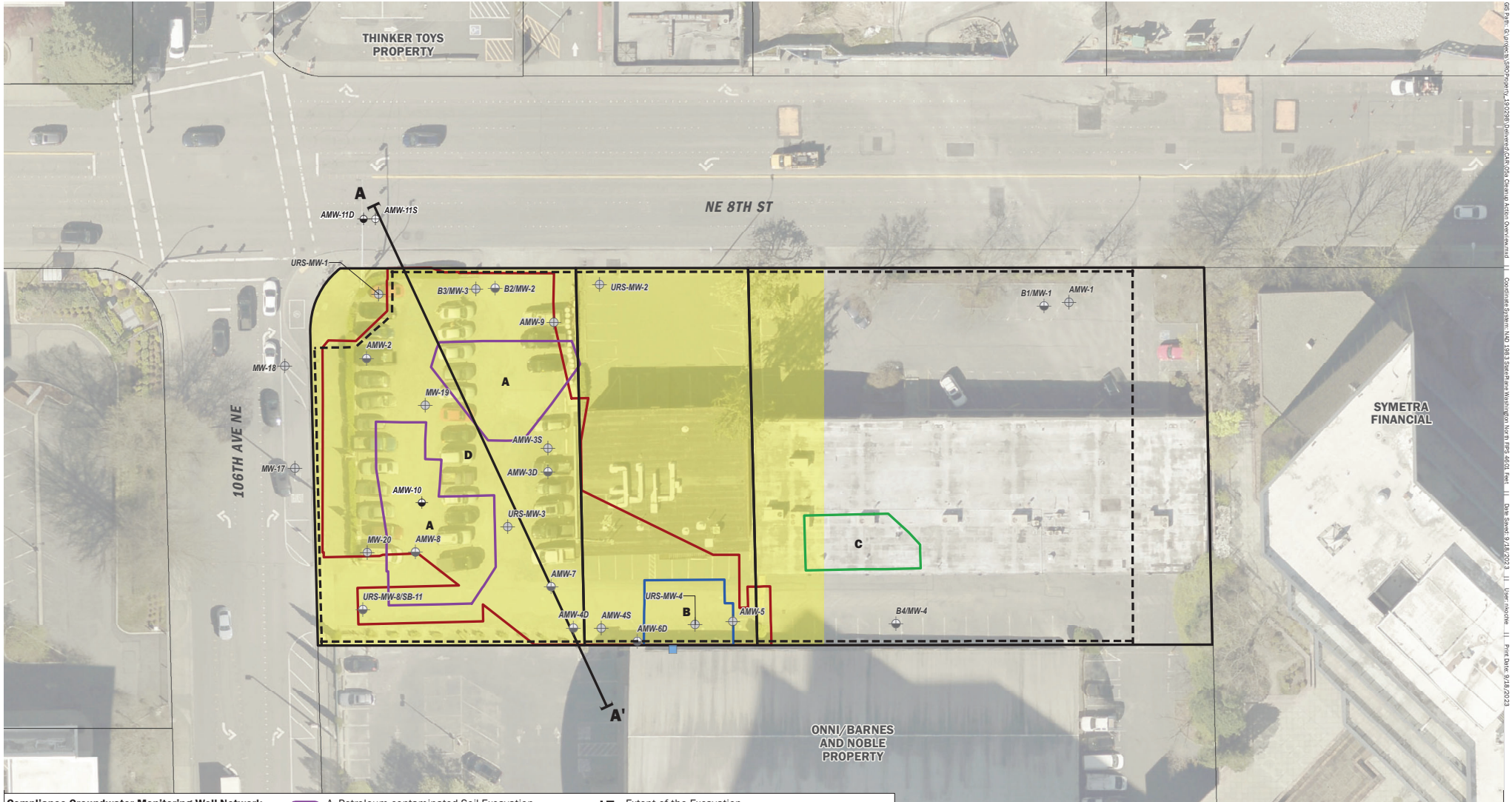
Enclosure C

Basis for the Opinion: List of Documents

Basis for the Opinion: List of Documents

1. Sweet-Edwards/EMCON, Inc, *Preliminary Environmental Site Assessment (PESA), Unocal Service Station 4511, Bellevue, Washington*; September 5, 1990.
2. EMCON Northwest, Inc., *Underground Storage Tank Closure Assessment, UNOCAL Corporation Service Station 4511, 106th Avenue and NE 8th Street, Bellevue, Washington*; May 21, 1992.
3. Department of Ecology (Ecology), *Unocal #4511 Final Cleanup Status, No Further Action*; July 2, 1992.
4. URS Greiner Woodward Clyde. *Phase II Soil and Groundwater Investigation, Optimer Property, 10105 NE 8th Street, Bellevue, Washington*; April 13, 2000.
5. Terra Associates, Inc., *Limited Phase II Environmental Site Assessment, SRO Site, SEC NE 8th Street and 106th Avenue NE, Bellevue, Washington, (Ecology's file copy is missing laboratory data report attachment)*; July 17, 2008.
6. URS, *Report, Limited Phase II Site Investigation, SRO Bellevue Corner Property, NE 8th and 106th Avenue, Bellevue (Ecology's file copy is missing Appendices C and D) Washington*; October 10, 2008.
7. SoundEarth Strategies, Inc., *Remedial Investigation and Focused Feasibility Study Report, Former Thinker Toys Property, 10610 Northeast 8th Street, Bellevue, Washington (only portions of Appendix B and Appendix D reviewed)*; April 8, 2011.
8. GeoEngineers, *Draft Remedial Investigation and Feasibility Study (RI/FS), Sterling Realty Organization, Bellevue Corner Property, 10605 and 10619 NE 8th Street, Bellevue, Washington*; December 30, 2013.
9. GeoEngineers, *Draft Cleanup Action Plan (CAP), Sterling Realty Organization, Bellevue Corner Property, 10605 and 10619 NE 8th Street, Bellevue, Washington*; April 10, 2014.
10. Ecology, *Opinion on Proposed Remedial Action, Bellevue Corner Property, VCP NW2817*; April 11, 2014.
11. GeoEngineers, *Revised Draft Remedial Investigation and Feasibility Study, Sterling Realty Organization, Bellevue Corner Property, 10605 and 10619 NE 8th Street, Bellevue, Washington*; June 10, 2014.
12. Ecology, *Opinion on Proposed Remedial Action, Bellevue Corner Property, VCP NW2817*; July 14, 2014.

13. Ecology, *Opinion on Proposed Cleanup of a Property Associated with a Site, Bellevue Corner Property, VCP NW2817*; September 8, 2014.
14. GeoEngineers, *Remedial Investigation and Feasibility Study, Sterling Realty Organization (SRO) Bellevue Corner Property, 10605 and 10619 NE 8th Street, Bellevue, Washington*; December 15, 2014.
15. GeoEngineers, *Revised Draft Cleanup Action Plan (CAP), SRO Bellevue Corner Property, 10605 and 10619 NE 8th Street, Bellevue, Washington*; December 22, 2014.
16. GeoEngineers, *Cleanup Action Plan (CAP), Sterling Realty Organization, Bellevue Corner Property, 10605 and 10619 NE 8th Street, Bellevue, Washington*; July 7, 2015.
17. Environmental Partners, Inc., *Revised Cleanup Action Plan, Bellevue Corner Property, 10605, 10619, and 10635 Northeast 8th Street, Bellevue, Washington*; November 22, 2016.
18. Ecology, *Opinion on Proposed Cleanup of a Property Associated with a Site, Bellevue Corner Unocal 4511, VCP NW3096*; March 21, 2017.
19. Aspect Consulting, LLC (Aspect), *Phase I Environmental Site Assessment*; October 14, 2019.
20. Aspect, *Phase II Environmental Site Assessment*; November 15, 2019.
21. Aspect, *Remedial Investigation Workplan*; February 7, 2020.
22. Aspect, *Remedial Investigation/Feasibility Study and Cleanup Action Plan*; November 20, 2020.
23. Ecology, *Technical Assistance Regarding the Remedial Investigation/Feasibility Study and Cleanup Action Plan, VCP NW3259*; August 30, 2021.
24. Ecology, *Technical Assistance Regarding Proposed Compliance Monitoring Well Locations, VCP NW3259*; May 25, 2022.
25. Aspect, *Groundwater Monitoring Report*; September 15, 2023.
26. Aspect, *Cleanup Action Report*; September 15, 2023.
27. Aspect, *Groundwater Monitoring Report*; September 15, 2023.
28. SWB Bellevue II LLC, *Environmental Covenant, Tax Parcel 154410-0215, King County Recording Number 202404090004*; April 9, 2024.



Compliance Groundwater Monitoring Well Network

- ⊕ 2022 Shallow Monitoring Well
- ⊕ 2022 Deep Monitoring Well

Existing Explorations

- ⊕ Shallow Monitoring Well
- ⊕ Deep Monitoring Well

■ Extent of Chemical Vapor Barrier

■ A Petroleum-contaminated Soil Excavation (Former Gas Station Source)

■ B Shallow Solvent-contaminated Soil Excavation (Suspected Solvent release(s) to Off-Property Catch Basin Source)

■ C Petroleum-contaminated Soil Excavation (Residential Heating Oil Source)

■ D Solvent-affected Soil Excavation (Thinker Toys Dry Cleaner Source)

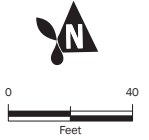
⊕ Extent of the Excavation for Redevelopment

⊕ Subject Property

⊕ King County Tax Parcel

■ Catch basin suspected of historical solvent release(s)

Notes:
 1) Site features are approximate.
 2) Monitoring wells "AMW" installed by Aspect. All other monitoring wells installed by other from 2000 to 2011.



Cleanup Action Overview Map
 Cleanup Action Report
 NE 8th St and 106th Ave NE
 Bellevue, Washington

DRAFT

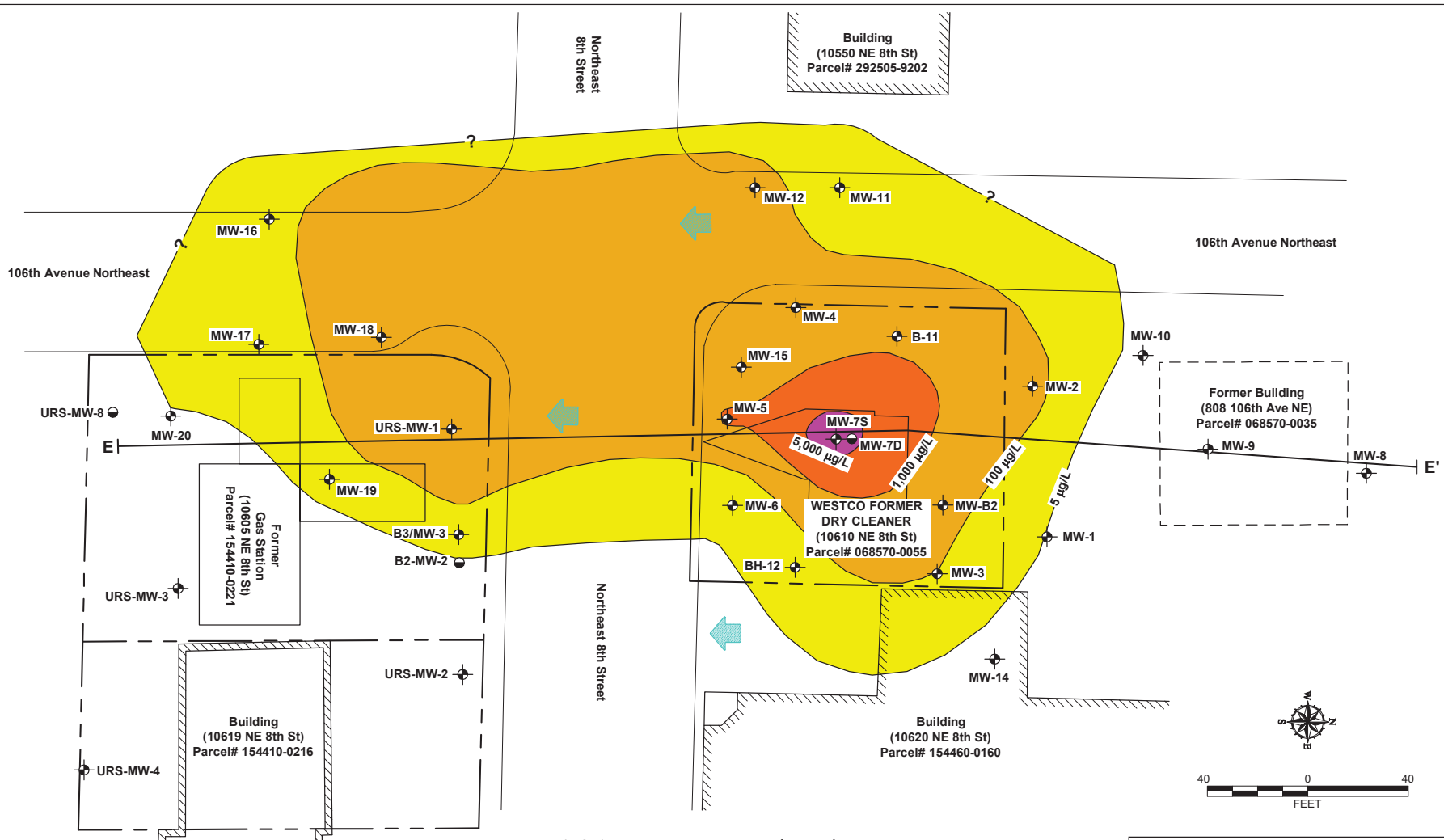
	SEP-2023 PROJECT NO. 190298	BY: MLK / TDR REVISED BY: NLK	FIGURE NO. 5a
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Basemap Layer Credits | EagleView Technologies, Inc.

Enclosure B, Figure 2

08-Per-19-10298-010298-010298-010298-CleanupActionOverviewMap-11-Coverage-01.mxd 10/3/2023 9:16:23 AM 11-Data-Sheet-9/16/2023 11-Coverage-01.mxd 11-Per-Data-9/16/2023

P:\19227004\CAD\03_SHEET FILES\RFS\FIGURE 10_12_13.DWG\TAB\F12 MODIFIED BY THICHAUD ON MAY 14, 2014 - 10:22



Notes

1. PCE groundwater data for SRO Property Wells is shown in Table 3.
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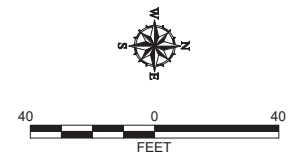
Reference: Background image provided by URS, dated 2011. Modified by GeoEngineers.

Tetrachloroethene (PCE) Concentrations

- 5 to 100 µg/L
 - 100 to 1,000 µg/L
 - 1,000 to 5,000 µg/L
 - > 5,000 µg/L
- MTCA Method A Cleanup Level = 5 µg/L

Legend

- Monitoring Well Location
- Deep Monitoring Well Location
- Approximate Parcel Boundaries
- Approximate PCE Iso-Concentration Contours (µg/L) for August 2010
- Approximate Groundwater Flow Direction in Perched Interval



PCE Perched Groundwater Contamination Map (August 2010)	
SRO, 10605 and 10619 NE 8th Street Bellevue, Washington	
GEOENGINEERS	Figure 12

Enclosure B, Figure 9